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No. 30]

NEW DELHI, SATURDAY, JULY 27, 2002/SRAVANA 5, 1924

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय
(पुनर्वास प्रभाग)

नई दिल्ली, 9 जुलाई, 2002

का.आ. 2394.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 34 के उप-धारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा निदेश देती है कि उक्त अधिनियम की धारा 33 के अधीन इसके द्वारा प्रयोग की जाने वाली शक्तियाँ, श्री प्रवीर पाण्डेय, उप सचिव, पुनर्वास प्रभाग, गृह मंत्रालय द्वारा प्रयोग की जाएंगी।

2. इससे पुनर्वास प्रभाग की दिनांक 30 अक्तूबर, 2001 की अधिसूचना संख्या-1(3)/2001-बन्दोबस्त का अधिकरण होता है।

[सं. 1(3)/2001-बन्दोबस्त]
बी.एन. लाहिरी, अवर सचिव

MINISTRY OF HOME AFFAIRS
(Rehabilitation Division)

New Delhi, the 9th July, 2002

S.O 2394.—In exercise of the powers conferred by Sub-Section (1) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby direct that the powers exercisable by it under Section 33 of the said Act shall be exercisable by Shri Pravir Pandey, Deputy Secretary, Rehabilitation Division, Ministry of Home Affairs.

2. This supersedes Rehabilitation Division's Notification No. 1(3)/2001-Settlement dated the 30th October, 2001.

[No. 1(3)/2001-Settlement]
B. N. LAHIRI, Under Secy.

नई दिल्ली, 9 जुलाई, 2002

का.आ. 2395.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्री प्रवीर पाण्डेय, उप सचिव, पुनर्वास प्रभाग, गृह मंत्रालय को उक्त अधिनियम के द्वारा या उसके अन्तर्गत संयुक्त मुख्य बन्दोबस्त आयुक्त को प्रदान किए गए कार्यों के निष्पादन के उद्देश्य से संयुक्त मुख्य बन्दोबस्त आयुक्त के रूप में तत्काल प्रभाव से नियुक्त करती है।

2. इससे पुनर्वास प्रभाग की दिनांक 30 अक्टूबर, 2001 की अधिसूचना-संख्या-1(3)/2001-बन्दोबस्त का अधिक्रमण होता है।

[सं. 1(3)/2001-बन्दोबस्त]
बी.एन. लाहिरी, अवर सचिव

New Delhi, the 9th July, 2002

S.O. 2395.—In exercise of the powers conferred by Sub-Section (1) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoint Shri Pravir Pandey, Deputy Secretary, Ministry of Home Affairs, Rehabilitation Division as Joint Chief Settlement Commissioner for the purpose of performing the functions assigned to such Joint Chief Settlement Commissioner by or under the said Act with immediate effect.

2. This supersedes Notification No. 1(3)/2001-Settlement dated the 30th October, 2001.

[No. 1(3)/2001-Settlement]
B. N. LAHIRI, Under Secy.

नई दिल्ली, 9 जुलाई, 2002

का.आ. 2396.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 34 के उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा निदेश देती है कि उक्त अधिनियम की धारा 24 की उप-धारा (4) के तहत इसके द्वारा प्रयोग की जाने वाली शक्तियों, श्री प्रवीर पाण्डेय, उप सचिव, पुनर्वास प्रभाग, गृह मंत्रालय द्वारा प्रयोग की जाएंगी।

2. इससे पुनर्वास प्रभाग की दिनांक 30 अक्टूबर, 2001 की अधिसूचना-संख्या-1(3)/2001-बन्दोबस्त का अधिक्रमण होता है।

[सं. 1(3)/2001-बन्दोबस्त]
बी.एन. लाहिरी, अवर सचिव

New Delhi, the 9th July, 2002

S.O. 2396.—In exercise of the powers conferred by Sub-Section (1) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby direct that the powers exercisable by it under Sub-Section (4) of Section 24 of the said Act shall be exercisable by Shri Pravir Pandey, Deputy Secretary, Rehabilitation Division, Ministry of Home Affairs.

2. This supersedes Rehabilitation Division's Notification No. 1(3)/2001-Settlement dated the 30th October, 2001.

[No. 1(3)/2001-Settlement]
B. N. LAHIRI, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

प्रादेश

नई दिल्ली, 4 जुलाई, 2002

स्टाम्प

का.आ. 2397.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्वारा आवास एवं ग्रहण विकास निगम लिमिटेड, नई दिल्ली को मात्र एक करोड़ बाईस लाख पचहत्तर हजार रुपये का समेकित स्टाम्प शुल्क भ्रष्टा करने की अनुमति प्रदान करती है जो उक्त निगम द्वारा जारी किए जाने वाले मात्र दो सौ तीस करोड़ पचासी लाख रुपये के समग्र मूल्य के 1 से 4609 तक की विशिष्ट संख्या वाले गुजरात पुनर्निर्माण विशेष कर मुक्त बंधपत्र शृंखला -I के रूप में वर्णित बंधपत्रों पर स्टाम्प शुल्क के कारण प्रभावी है।

[सं. 36/2002-स्टाम्प का. सं. 33/53/2002-वि. क.]
आर. जी. छाबड़ा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 4th July, 2002

STAMPS

S.O. 2397.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Housing and Urban Development Corporation Limited, New Delhi to pay consolidated stamp duty of Rupees One crore twenty two lakh seventy five thousand only chargeable on account of the stamp duty on bonds described as Gujarat Purnamirman Special Tax Free Bonds—Series-I bearing distinctive numbers from 1 to 4609 aggregating to Rupees Two hundred thirty crore fourty five lakh only, to be issued by the said Corporation.

[No. 36/2002-STAMP/F. No. 33/53/2002-ST]
R. G. CHHABRA, Under Secy.

आदेश

नई दिल्ली, 4 जुलाई, 2002

स्टाम्प

का.आ. 2398.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा आई. एफ. सी. आई. लिमिटेड, नई दिल्ली को मास पच्चीस हजार तीन सौ दस रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र एक करोड़ पचास लाख इकसठ हजार छह सौ सोलह रुपये के समग्र मूल्य के 0020049 और 0020050 विशिष्ट संख्या वाले प्रोमिसरी नोटों के स्वरूप वाले जमा प्रमाण पत्र पर स्टाम्प शुल्क के कारण प्रभावी है।

[सं. 37/2002-स्टाम्प/का. सं. 33/52/2002-वि. क.]

आर. जी. छाबड़ा, अवर सचिव

ORDER

New Delhi, the 4th July, 2002

STAMPS

S.O. 2398.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits IFCI Limited, New Delhi to pay consolidated stamp duty of Rupees Seventy five thousand three hundred ten only on account of the stamp duty on Certificate of Deposit in the nature of Promissory Notes bearing distinctive numbers 0020049 and 0020050 aggregating to Rupees one crore fifty lakh sixty one thousand six hundred sixteen only, to be issued by the said Company.

[No. 37/2002-STAMP/F. No. 33/52/2002-ST]

R. G. CHHABRA, Under Secy.

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 6 फरवरी, 2002

(आयकर)

का.आ. 2399.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये केन्द्रीय सरकार एतद्वारा "श्री बद्रीनाथ एंड श्री केदारनाथ टेम्पल कमेटी, जोशीमठ" को 1993-94 से 1995-96 तक के कर निर्धारण वर्षों के लिये निम्नलिखित शर्तों के अधीन रहते हुये उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (1) कर निर्धारिती उसकी आय का हस्तेमाल अथवा उसकी आय का हस्तेमाल करने के लिये उसका संकयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिये करेगा जिनके लिये इसकी स्थापना की गई है;

(2) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक वंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिये प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखापुस्तिकाएं नहीं रखी जाती हों;

(4) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

(5) विषय की स्थिति में अतिरिक्त राशियां और परिसम्पत्तियों या समान उद्देश्यों वाले धनीय संगठन को दे दी जायेंगी।

[अधिसूचना सं. 26/2002/का. सं. 197/221/2001-आ. क. नि.-I]

आई. पी. एस. बिन्द्री, अवर सचिव

(Central Board of Direct Taxes)

New Delhi, the 6th February, 2002

(INCOME-TAX).

S.O. 2399.—In exercise of the powers conferred by the Sub-clause (v) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Shri Badrinath and Shri Kedarnath Temple Committee, Joshimath" for the purpose of the said sub-clause for the assessment years 1993-94 to 1995-1996 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of

business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961.
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives.

[Notification No. 26/2002/F. No. 197/221/
2001-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 29 अप्रैल, 2002

(आयकर)

का.आ.2400.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "एक्लोफ इंडिया पब्लिक चैरिटेबल ट्रस्ट, चेन्नई" को 2000-2001 से 2002-2003 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संकयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जोवर-जवाहिरात फर्नीचर अथवा किसी अन्य वस्तु अथवा के रूप में प्राप्त तथा अनुरक्षित स्वेच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना ऐसी किसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अमिलाभ हों जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा।

- (v) विघटन की स्थिति में अतिरिक्त राशियां और परि-सम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना संख्या 102/2002/फा.सं. 197/69/2002-
आई.टी.ए.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 29th April, 2002

(INCOME TAX)

S.O. 2400.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Eclof India Public Charitable Trust, Chennai" for the purpose of the said sub-clause for the assessment years 2000-2001 to 2002-2003 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.
- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961.
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives.

[Notification No. 102/2000/F. No. 197/69/
2002-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 20 जून, 2002

(आयकर)

का.आ.2401.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "श्री नासिक पंचवटी पंजरापोल, मुम्बई" को वर्ष 1998-1999 से 2000-2001 तक के कर निर्धारण वर्षों के लिए

निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयो-
जनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है,
- (ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा II की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वीच्छक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएँ नहीं रखी जाती हों ;
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप में आयकर प्राधिकारी के समक्ष फाइल करेगा,
- (v) विघटन की स्थिति में अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ गठन को दे दी जाएंगी ।

[अधिसूचना संख्या : 155/2002/फा.सं. 197/70/2001-
आई.टी.ए.-I]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 20th June, 2002

(INCOME TAX)

S.O. 2401.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Shree Nasik Panchavati Panjrapole, Mumbai" for the purpose of the said sub-clause for the assessment years 1998-99 to 2000-2001 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate, for application, wholly and exclusively to the objects for which it is established ;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions

received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11 ;

- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.
- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961.
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives.

[Notification No. 155/2002/F. No. 197/70/
2001-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 9 जुलाई, 2002

(आयकर)

फा.आ. 2402—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, केन्द्रीय सरकार एतद्वारा "श्री जैन श्वेताम्बर भण्डार तीर्थ, पावापुरी, बिहार" को वर्ष 1996-97 से 1998-99 तक के कर निर्धारण वर्षों के लिये निम्नलिखित शर्तों के अधीन रहते हुये उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :

- (i) कर निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिये उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिये करेगा जिनके लिये इसकी स्थापना की गई है ;
- (ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 2 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वीच्छक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिये प्रासंगिक नहीं हो तथा ऐसे

कारोबार के संबंध में अलग से लेखा पुस्तिकाएँ नहीं रखी जाती हों;

नई दिल्ली, 9 जुलाई, 2002

(आयकर)

- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा ;
- (v) विघटन की स्थिति में अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 165/2002/फा.सं. 197/
95/2002-आई टी ए-1]

आई.पी. एस. बिन्दा, अवर सचिव

New Delhi, the 9th July, 2002

(INCOME TAX)

S.O. 2402.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Shree Jain Swetamber Bhandar Tirth, Pawa Puri, Bihar" for the purpose of the said sub-clause for the assessment years 1996-97 to 1998-99 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established ;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11 ;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.
- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961.
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives.

[Notification No. 165/2002/F. No. 197/95/
2002-ITA-1]

I. P. S. BINDRA, Under Secy.

का.आ. 2403.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "दोहनावर फैलोशिप, दोहनावर, तिरु-नेलवेली" को 1992-93 से 1994-95 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रखते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

(i) कर निर्धारिती उसकी आय का हस्तेमाल अथवा उसकी आय का हस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अन्त्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है ;

(ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जैसे-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु अदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक दान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा।

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएँ नहीं रखी जाती हों ;

(iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा ;

(v) सोसायटी के विघटन की स्थिति में अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 166/2002/फा.सं. 197/193/2001-आ.
क.नि.-1]

आई.पी.एस. बिन्दा, अवर सचिव

New Delhi, the 9th July, 2002

(INCOME TAX)

S.O. 2403.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Dohnavur Fellowship, Dohnavur, Tirunelveli" for the purpose of the said sub-clause for the assessment years 1992-93 to 1994-95 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established ;

- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.
- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives.

[Notification No. 166/2002/F. No. 197/193/2001-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 9 जुलाई, 2002

(आयकर)

का.आ.2404:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा “श्री श्री जगद्गुरु शंकराचार्य महासनातनम् दक्षिणमण्ड्या श्री शारदा पीठम् श्रीगंगोत्री” की वर्ष 2002-2003 से 2004-2005 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहने हुए उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है,
- (ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (ज्वर-जवाहिरात, कर्त्त-चर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ

तथा अभिलाष हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में प्रलग से लेखा पुस्तिकाएं नहीं रखी जाती हो;

- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा,
- (v) विघटन की स्थिति में अतिरिक्त राशियां और सम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 167/2002/का. सं. 197/136/2002-आईटीए-1]

आई.पी.एस. बिन्द्रा, अवर सचिव

New Delhi, the 9th July, 2002

(INCOME TAX)

S.O. 2404.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Sri Sri Jagadguru Shankaracharya Mahasanathanam Dekshinamnaya Sri Sharda Peetham, Sringeri” for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.
- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961.
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives.

[Notification No. 167/2002/F. No. 197/136/2002-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 9 जुलाई, 2002

(आयकर)

का.आ. 2405:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्-द्वारा "गोविन्दपुरम पार्थसारथी क्षेत्र समरक्षण समिति कालीकट" को वर्ष 1999-2000 से 2001-2002 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिणी उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है।
- (ii) कर निर्धारिणी उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जबर-अवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनु-रक्षित स्वच्छिष्ट अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जबतक कि ऐसा कारोबार उक्त कर निर्धारिणी के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएँ नहीं रखी जाती हों,
- (iv) कर निर्धारिणी आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा,
- (v) विघटन के स्थिति में अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 168/2002/फा. सं. 197/96/2002—आईटीए-1]

आई. पी. एस. बिन्द्रा, अवर सचिव

New Delhi, the 9th July, 2002

(INCOME TAX)

S.O. 2405.—In exercise of the powers conferred by the sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Govindapuram Parthasarathi Kshethra Samrakshana Samithi,

Calicut" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.
- (iv) the assessee will regularly file its return of income before the income-tax authority in accordance with the provisions of the Income-tax Act, 1961.
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives.

[Notification No. 168/2002/F. No. 197/96/2002-ITA-I]

I. P. S. BINDRA, Under Secy.

नई दिल्ली, 15 जुलाई, 2002

का.आ. 2406:—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में राजस्व विभाग के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों में हिन्दी का कार्य साधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

अपर आयकर आयुक्त,

अपर आयकर आयुक्त का कार्यालय,

हरिद्वार रेंज,

हरिद्वार (उत्तरांचल)

[फा. सं. 11011/5/2002-हिन्दी-3]
सधु शर्मा, उप निदेशक (राजभाषा)

New Delhi, the 15th July, 2002

S.O. 2406.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government, hereby notifies the following office of the Department of Revenue, whereof more than 80 per cent of the staff have acquired the working knowledge of Hindi :

Additional Income Tax Commissioner,
Office of the Addl. Income Tax Commissioner,
Haridwar Range, Haridwar:

[F. No. 11011/5/2002-Hindi-3]

MADHU SHARMA, Dy. Director (O.L.)

नई दिल्ली, 15 जुलाई, 2002

का.प्र. 2407.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में राजस्व विभाग के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों में हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधि-सूचित करती है :—

मुख्य आयकर आयुक्त,
मुख्य आयकर आयुक्त का कार्यालय,
आयकर भवन, 13-ए, सुभाष रोड,
देहरादून-248001 (उत्तरांचल)

[फा. सं. 11011/5/2002-हिन्दी-3]

मधु शर्मा, उप निदेशक (राजभाषा)

New Delhi, the 15th July, 2002

S.O. 2407.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government, hereby notifies the following office of the Department of Revenue, whereof more than 80 per cent of the staff have acquired the working knowledge of Hindi :

Chief Commissioner of Income Tax,
Office of the Chief Commissioner of Income Tax,
Aayakar Bhawan, 13-A, Subhash Road,
Dehradun-248001 (Utaranchal):

[F. No. 11011/5/2002-Hindi-3]

MADHU SHARMA, Dy. Director (O.L.)

कार्यालय आयकर आयुक्त-1

आदेश

कानपुर, 18 अप्रैल, 2002

सं. जी-1/2002-03

का.प्र. 2408.—मुख्य आयकर आयुक्त के आदेश सं. जी-2/2002-03 दिनांक 18-04-2002 जिसे पूर्णतः एक नं. सीपीआईटी/केएनपी/सी एण्ड वी/516/2002-03/2220/GI/2002-2

222 दिनांक 18-04-2002 के द्वारा परिचालित किया गया है, के अनुसरण में एतद्वारा निम्नलिखित आयकर निदेशकों की आयकर अधिकारी (ग्रुप बी) के ग्रेड वेलनमान 6500-200-10500 में पदोन्नत किया जाता है।

सर्वश्री

1. एम. एम. डोला
2. शमशेर सिंह
3. संगीत बंसन
4. अशोक कुमार सक्सेना

ऐसे पदोन्नत अधिकारी जिनकी सेवायें आयकर आयुक्त, कानपुर के अधीन सीधी गयी हैं, की निम्नलिखित आयकर आयुक्त कानपुर के कार्यालय में आयकर अधिकारी (ओ. एस.बी.) के पद पर की जाती है।

यह अनुमोक्त प्रसिद्ध है : तथा किसी प्रासंगिकता जैसे रिक्तियों की संख्या, परिष्कृत निष्पत्ति आदि के संबंध में होने वाली किसी पुनर्बिभाजन डी.पी.सी. के अधीन है। ऐसे पदोन्नत अधिकारी, भारत सरकार, गृह मंत्रालय के कार्यालय शासन संख्या 44/1/59-स्था. (ए) दिनांक 18-04-58, गृह मंत्रालय (कामिक व प्रशासनिक सुधार विभाग) के कार्यालय शासन संख्या 21011/2/80 स्था. (सी) दि. 19-05-83, कार्यालय शासन संख्या 21011/3/83 स्था. (सी) दिनांक 24-2-84 एवं 5-12-84 तथा कार्यालय शासन संख्या 21011/2/89-स्था. (सी) दिनांक 26-04-89 के अनुसार दो वर्षों की अवधि के लिए परीक्षा पर रहेगी पदोन्नत अधिकारियों की पारस्परिक वरिष्ठता काद में निर्धारित की जायेगी।

यह पदोन्नति आदेश अरविन्द कुमार त्रिवेदी तथा अन्य बनाम भारत सरकार तथा अन्य के मामले में रिट याचिका संख्या 46442 आक 2000 में माननीय इलाहाबाद उच्च न्यायालय द्वारा दिये गये फैसले के अधीन है।

यह आदेश आयकर अधिकारियों को अपने वर्तमान पद-स्थापन पर बने रहने का कोई अधिकार प्रदान नहीं करता है। उनका अंतिम पद स्थापन संबंधी स्वातंत्र्य प्रक्रिया के समय पुनर्गठन प्रक्रिया में विभित्व स्टेशन को आवंटित आयकर अधिकारियों के पदों को दृष्टिगत रखते हुए निर्दिष्ट किया जायेगा।

[फा. सं. 11047/2002-03/375]

आर. के. तिवारी, आयकर आयुक्त-1

OFFICE OF THE COMMISSIONER OF
INCOME TAX-1

ORDER

Kanpur, the 18th April, 2002

No. G-1/2002-2008

S.O. 2408.—In pursuance of CCIT's Order No. G-02/2002-03 dated 18-4-2002 circulated vide endorsement F. No. CCIT/KNP/C&V/516/2002-03/222

dated 18-4-2002, the following Inspectors of Income-tax, are hereby promoted in the grade of Income-tax Officer (Group 'B') in the pay scale of 6500-200-10500 :

1. S/Shri M. M. Badola.
2. Shamsheer Singh.
3. Sangeet Bansal.
4. Ashok Kumar Saxena.

The officers so promoted, whose services are placed at the disposal of Commissioner of Income-tax-I, Kanpur are posted as Income-tax Officer (OSD) in the office of the Commissioner of Income-tax-I, Kanpur.

The approval is provisional and is subject to any review D.P.C. taking place for any contingency like number of vacancy, fixation of seniority etc. The officers, so approved for promotion shall be on probation for a period of two years in terms of G.I.M.H.A. (DP&AR) O.M. No. 44/159-Estt(A) dated 15th April, 1959, G.I.M.H.A., (DP&AR) O.M. No. 21011/2/80-Estt. (C) dated 19-5-1983, O.M. No. 21011/3/83-Estt. (C) dated 24-2-1984 and 5-12-1984 and O.M. No. 21011/2/89-Estt. (C) dated 26-4-1989. The inter-se seniority of the officers, so promoted, shall be fixed later on.

This order of promotions is subject to the decision of Hon'ble High Court, Allahabad in the writ petition No. 46442 of 2000 in the case of Arvind Kumar Trivedi and Others Vs. Union of India and Others

The above order does not bestow any right to the officer to remain posted at their present placement. The final posting shall be decided keeping in mind the post of ITOs allocated to various stations in the restructuring exercise, during the course of annual general transfers.

[F. No. 11-47/2002-03/275]

R. K. TEWARI, Commissioner of Income-tax-I

कार्यालय आयकर आयुक्त-II

आदेश

कानपुर, 18 अप्रैल, 2002

सं. जी-1/2002-03

का.आ.2409.—मुख्य आयकर आयुक्त के आदेश सं. जी-02/2002-03 दिनांक 18-04-2002 जिसे पृष्ठांकन एफ. नं. सीसीआईटी/केएनपी/सी एण्ड वी/516/2002-03/222 दिनांक 18-4-2002 के द्वारा परिष्कृत किया गया है, के अनुसरण में एतद्वारा निम्नलिखित आयकर निरीक्षकों को आयकर अधिकारी (ग्रुप "बी") के ग्रेड वेतनमान 6500-200-10500 में पदोन्नत किया जाता है।

सर्वश्री

1. वेद राम सागर (अनु. जा.)
2. आर. सी. शर्मा
3. शिवराज सिंह चहल

ऐसे पदोन्नत अधिकारी जिनकी सेवायें आयकर आयुक्त-II, कानपुर के अधीन सौंपी गयी हैं, की नियुक्ति आयकर

आयुक्त-II, कानपुर के कार्यालय में आयकर अधिकारी (ग्रोपमडी) के पद पर की जाती है।

यह अनुमोदन अन्तिम है तथा किसी आकस्मिकता जैसे रिक्तियों की संख्या, वरिष्ठता निर्धारण आदिके संबंध में होने वाली किसी पुनर्विलोकन डी.पी.सी. के अधीन है। ऐसे पदोन्नत अधिकारी, भारत सरकार गृह मंत्रालय के कार्यालय ज्ञापन सं. 44/1/59-स्था. (ए) दि. 15-04-59, गृह मंत्रालय (कार्मिक व प्रशासनिक सुधार विभाग) के कार्यालय ज्ञापन संख्या 21011/2/80-स्था. (सी) दिनांक 19-05-83, कार्यालय ज्ञापन संख्या 21011/3/83 स्था. (सी) दि. 24-02-84 एवं 05-12-84 तथा कार्यालय ज्ञापन संख्या-21011/2/89 स्था. (सी) दि. 26-04-89 के अनुसार दो वर्षों की अवधि के लिए परीक्षा पर रहेंगे। पदोन्नत अधिकारियों की पारस्परिक वरिष्ठता बाद में निर्धारित की जाएगी।

यह पदोन्नति आदेश अरविन्द कुमार त्रिवेदी तथा अन्य बनाम भारत सरकार तथा अन्य के मामले में रिट याचिका संख्या 46442 आफ 2000 में माननीय इलाहाबाद उच्च न्यायालय द्वारा दिये गये फैसले के अधीन है।

यह आदेश आयकर अधिकारियों को अपने वर्तमान पद-स्थापन पर बने रहने का कोई अधिकार प्रदान नहीं करता है। उनका अन्तिम पदस्थापन वार्षिक स्थानांतरण प्रक्रिया के समय पुनर्गठन प्रक्रिया में विभिन्न स्टेशनों को प्राबंतिन आयकर अधिकारियों के पदों की दृष्टिगत रखते हुए निश्चित किया जायेगा।

[फा. सं. 11-47/2002-03/189]

एस. एम. निगम, आयकर आयुक्त-II

OFFICE OF THE COMMISSIONER OF
INCOME TAX-II

ORDER

Kanpur, the 18th April, 2002

No. G-1/2002-2003

S.O. 2409.—In pursuance of CCIT's Order No. G-02/2002-2003 dated 18-4-2002 circulated vide endorsement F. No. CCIT/KNP/C&V/516/2002-03/222 dated 18-4-2002, the following Inspectors of Income-tax, are hereby promoted in the grade of Income-tax Officer (Group 'B') in the pay scale of 6500-200-10500.

1. S/Shri Ved Ram Sagar (SC).
2. R. C. Sharma.
3. Shivraj Singh Chahal.

The officers so promoted, whose services are placed at the disposal of Commissioner of Income-tax-II, Kanpur are posted as Income-tax Officer (OSD) in the office of the Commissioner of Income-tax-II, Kanpur.

The approval is provisional and is subject to any review D.P.C. taking place for any contingency like number of vacancy, fixation of seniority etc. The officers, so approved for promotion shall be on probation for a period of two years in terms of G.I.M.H.A.

(DP&AR) O.M. No. 44/1/59-Estt. (A) dated 15th April, 1959, G.I.M.H.A., (DP&AR) O.M. No. 21011/2/80-Estt. (C) dated 19-5-1983, O.M. No. 21011/3/83-Estt. (C) dated 24-2-1984 and 5-12-1984 and O.M. No. 21011/2/89-Estt. (C) dated 26-4-1989. The inter-se-seniority of the officers so promoted, shall be fixed later on.

This order of promotion is subject to the decision of Hon'ble High Court, Allahabad in the writ petition No. 46442 of 2000 in the case of Arvind Kumar Trivedi and Others Vs. Union of India and Others.

The above order does not bestow any right to the officer to remain posted at their present placement. The final posting shall be decided keeping in mind the post of ITOs allocated to various stations in the restructuring exercise, during the course of annual general transfers.

[F. No. 11-47/2002-2003/275]

S. M. NIGAM, Commissioner of Income-Tax-II

(व्यय विभाग)

नई दिल्ली, 15 जुलाई, 2002

का.आ. 2410.—भविष्य निधि अधिनियम, 1925 (1925 का 19) के खण्ड 8 के उपखण्ड (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा उक्त अधिनियम के अनुसूची में निम्नलिखित सार्वजनिक संस्थान को जोड़ती है नामतः :-

“एजुकेशन एण्ड रिसर्च नेटवर्क (ई.आर.एन.ई.टी.)”

[सं. 4(1) संस्था-V/95 (I)]

महेन्द्र सिंह, निदेशक

(Department of Expenditure)

New Delhi, the 15th July, 2002

S.O. 2410.—In exercise of the powers conferred by Sub-section (3) of Section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds to the Schedule to the said Act the name of the following public institution, namely :-

“Education and Research Network (ERNET).”

[No. 4(1)-EV/95(1)]

MOHINDER SINGH, Director

नई दिल्ली, 15 जुलाई, 2002

का.आ. 2411.—भविष्य निधि अधिनियम, 1925 (1925 का 19) के खण्ड 8 के उपखण्ड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा निदेश देती है कि उपरोक्त अधिनियम (खण्ड 6 ए को छोड़कर) के प्रावधान, एजुकेशन एण्ड रिसर्च नेटवर्क (ई.आर.एन.ई.टी.) के कर्मचारियों के लाभ के लिए स्थापित भविष्यनिधि पर भी लागू होंगे।

[सं. 4(1) संस्था-V/95 (II)]

महेन्द्र सिंह, निदेशक

New Delhi, the 15th July, 2002

S.O. 2411.—In exercise of the powers conferred by Sub-section (2) of Section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act (except Section 6A) shall apply to the Provident Fund established for the benefit of the employees of the Education and Research Network [ERNET].

[No. 4(1)-EV/95(II)]

MOHINDER SINGH, Director

(आर्थिक कार्य विभाग)

नई दिल्ली, 28 मई, 2002

का.आ. 2412.—दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 292 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ने एतद्द्वारा यह निर्णय लिया है कि दण्ड प्रक्रिया संहिता की धारा 292 (1) में संशोधन, जो गृह मंत्रालय के विचारधीन है, किए जाने तक, करेंसी नोट प्रेस, नासिक में कार्यरत करेंसी नोट परीक्षण कक्ष (सी एन ई) को, इसके अधिकारियों और कर्मचारियों तथा इस कक्ष के लिए अभिप्रेत बजटीय आवंटन सहित, एक पूर्णतः अस्थायी उपाय के तौर पर, भारत प्रतिभूति मुद्रणालय, नासिक, में स्थापित किया जाता है।

[एफ.सं. 1/2/99/करेंसी II (बी एन पी)]

आर.के. मागो, अवर सचिव

(Department of Economic Affairs)

New Delhi, the 28th May, 2002

S.O. 2412.—In exercise of the powers conferred by Sub-section (1) of Section 292 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby decide that the Currency Note Examination Cell (CNE) functioning in the Currency Note Press, Nasik is transferred to India Security Press, Nasik along with the officers and staff and the budgetary allocation meant for the cell purely as a temporary measure pending amendment of Section 292(1) of the Cr.P.C. which is under consideration of the Ministry of Home Affairs.

[No. 1/2/99-Cy.II(BNP)]

R. K. MAGGO, Under Secy.

(बैंकिंग प्रभाग)

नई दिल्ली, 16 जुलाई, 2002

का.आ. 2413.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्द्वारा, यह घोषणा करती है कि उक्त अधिनियम की धारा 13 व 15(1) के अन्तर्गत इस अधिसूचना की तारीख से पाबंदी को प्रभाव के लिए बैंक ऑफ महाराष्ट्र पर लागू नहीं होंगे।

[सं. 11/19/2001-बी ओ ए]

डी. चौधरी, अवर सचिव

(Banking Division)

New Delhi, the 16th July, 2002

S.O. 2413.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government, on the recommendation of Reserve Bank of India, hereby declares that the provisions of Sections 13 and 15(1) of the said Act shall not apply, for a period of five years from the date of this Notification, to Bank of Maharashtra.

[F.No. 11/19/2001-BOA]

D. CHOUDHURY, Under Secy.

नई दिल्ली, 17 जुलाई, 2002

का.आ. 2414:— भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खण्ड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, वित्त मंत्रालय, आर्थिक कार्य विभाग, नई दिल्ली के सचिव (वित्तीय क्षेत्र) श्री डी.सी. गुप्ता, आईएस (उडीसा : 67) को तत्काल प्रभाव से और अगले आदेश होने तक श्री एस.के. पुरकायस्थ के स्थान पर भारतीय स्टेट बैंक के केन्द्रीय बोर्ड में निदेशक के रूप में नियुक्त करती है।

[फा.सं. 9/3/2002-बी.ओ.-I(ii)]

आलोक कुमार, निदेशक

New Delhi, the 17th July, 2002

S.O. 2414.—In exercise of the powers conferred by clause (e) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, hereby nominates Shri D. C. Gupta, IAS (OR : 67), Secretary (Financial Sector), Ministry of Finance, Department of Economic Affairs, New Delhi as a Director on the Central Board of the State Bank of India with immediate effect and until further orders vice Shri S. K. Purkayastha.

[F. No. 9/3/2002-B.O.I (ii)]

ALOK KUMAR, Director

नई दिल्ली, 17 जुलाई, 2002

का.आ. 2415.—राष्ट्रकृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उपधारा (1) के खण्ड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, वित्त मंत्रालय आर्थिक कार्य विभाग, नई दिल्ली में, सचिव (वित्तीय क्षेत्र), श्री डी.सी. गुप्ता, आईएस (उडीसा : 67) को तत्काल प्रभाव से और अगले आदेश होने तक श्री एस.के. पुरकायस्थ के स्थान पर राष्ट्रीय कृषि और ग्रामीण विकास बैंक के निदेशक मण्डल में निदेशक के रूप में नियुक्त करती है।

[फा.सं. 9/3/2002-बी.ओ.-I(i)]

आलोक कुमार, निदेशक

New Delhi, the 17th July, 2002

S.O. 2415.—In exercise of the powers conferred by clause (e) of Sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, hereby nominates Shri D. C. Gupta, IAS (OR : 67), Secretary (Financial Sector), Ministry of Finance, Department of Economic Affairs, New Delhi as a Director on the Board of Directors of National Bank for Agriculture and Rural Development with immediate effect and until further orders vice Shri S. K. Purkayastha.

[F. No. 9/3/2002-B.O.I(i)]

ALOK KUMAR, Director

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 9 जुलाई, 2002

का.आ. 2416.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कौंसलावास सन फ्रांसिस्को में सर्वश्री बी.भट्टाचारजी और श्रीमती मधू भूटानी सहायको को 09-07-2002 से सहायक कौंसली अधिकारी का कार्य करने के लिए प्राधिकृत करती है।

[क्रमांक टी. 4330/1/2002]

योगेश नारंग, उप सचिव (कान्सुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. Division)

New Delhi, the 9th July, 2002

S.O. 2416.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oath and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Shri B. Bhattacharjee and Smt. Madhu Bhutani, Assts. in the Consulate General of India, San Francisco to perform the duties of Assistant Consular Officer with effect from 9-7-2002.

[No. T. 4330/1/2002]

Y. C. NARANG, Dy. Secy. (Cons)

नई दिल्ली, 9 जुलाई, 2002

का.आ. 2417.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कौंसलावास टोरंटो में श्रीमती माधुरी कांधूरी सहायको को 09-07-2002 से सहायक कौंसली अधिकारी का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/1/2002]

योगेश नारंग, उप सचिव (कान्सुलर)

New Delhi, the 9th July, 2002

S.O. 2417.—In pursuance of the Clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Smt. Madhuri Khanduri, Assistant in the Consulate General of India, Toronto to perform the duties of Assistant Consular Officer with effect from 9-7-2002.

[No. T. 4330/1/2002]

Y. C. NARANG, Dy. Secy. (Cons)

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 18 जुलाई, 2002

का.आ. 2418.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में वाणिज्य विभाग के अन्तर्गत आने वाले समुद्री उत्पाद निर्यात विकास प्राधिकरण के निम्नलिखित कार्यालयों को अधिसूचित करती है, जिसके 80% से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है :—

1. समुद्री उत्पाद निर्यात विकास प्राधिकरण, उप क्षेत्रीय कार्यालय,
पहला तल, केल्ली कोर्ट, पांजे मंजेश राव रोड,
हंपनकट्टा,
मैंगलूर-575001
2. समुद्री उत्पाद निर्यात विकास प्राधिकरण,
क्षेत्रीय कार्यालय,
छठा तल, रीजेन्ट चेंबर्स, जमनलाल बाजाज मार्ग,
नरीमन प्वाइंट,
मुंबई-400 021
3. समुद्री उत्पाद निर्यात प्राधिकरण,
उप क्षेत्रीय केन्द्र (अक्वा),
बसीम मंजिल, पहला तल, हाई चर्च स्ट्रीट,
कारवार-581 301
4. समुद्री उत्पाद निर्यात विकास प्राधिकरण,
उप क्षेत्रीय कार्यालय,
मिरा फ्लोर्स, पहला तल,
"गोमन्तक" प्रेस के सामने,
सेंट ईनेज,
पनजी-408 001, गोवा
5. समुद्री उत्पाद निर्यात विकास प्राधिकरण,
क्षेत्रीय केन्द्र (अक्वा),
ट्राइफेड टावर, चौथा तल,
पी.बी.सं. 56, प्लॉट सं. 3,

सेक्टर 17, क्षेत्र, सिडको खंता कॉलोनी/खंडेश्वर स्टेशन,
मुंबई-पुणे हाइवे,
नई पनवेल (पश्चिम)
नई मुंबई-410 206

6. समुद्री उत्पाद निर्यात विकास प्राधिकरण,
क्षेत्रीय केन्द्र (अक्वा),
अमित क्लिनिक, बाई अवबाई हाईस्कूल के सामने,
हलार रोड,
वल्साद-396 001, गुजरात
7. समुद्री उत्पाद निर्यात विकास प्राधिकरण,
उप क्षेत्रीय केन्द्र (अक्वा),
प्लॉट सं. 161/1, तीसरा तल,
उल्टडंगा, वीआईपी रोड,
कोलकाता-700 054, पश्चिम बंगाल
8. समुद्री उत्पाद निर्यात विकास प्राधिकरण,
व्यापार संवर्धन कार्यालय,
101, निर्मल टावर, बाराखंबा रोड,
नई दिल्ली-110 001
9. समुद्री उत्पाद निर्यात विकास प्राधिकरण,
क्षेत्रीय कार्यालय, "सुख शांति" बिल्डिंग,
पहला तल, बिडिया,
वेरसवल-362 269, गुजरात

[सं. ई.-11013/3/99-हिन्दी]

एल.पी.सैनी, निदेशक (राजभाषा)

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 18th July, 2002

S.O. 2418.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies the following offices of the Marine Products Export Development Authority whereof more than 80 per cent Staff have acquired a working knowledge of Hindi :—

1. The Marine Products Export Development Authority, Sub Regional Office,
1st Floor, Kelle Court,
Panje Manjesh Rao Road,
Hampankatta, Mangalore-575001.
2. The Marine Products Export Development Authority, Regional Office,
6th Floor Regent Chambers,
Jamanlal Bajaj Marg,
Nariman Point, Mumbai-400021.
3. The Marine Products Export Development Authority, Sub Regional Centre (Aqua),
Wascem Manzil, 1st Floor,
High Church Street,
Karwar-581301.

4. The Marine Products Export Development Authority, Sub Regional Office, Mira Floors, 1st Floor, Near "Gomantak" Press, St. Incz, Panaji-408001, Goa.
5. The Marine Products Export Development Authority, Regional Centre (Aqua), Trifed Tower, 4th Floor, P.B. No. 56, Plot No. 3, Sector 17, CIDCO Area, Near Khanda Colony/Khandeswar Station, Mumbai-Pune Highway, New Panvel(W), Nave Mumbai-410206.
6. The Marine Products Export Development Authority, Regional Centre (Aqua), Amit Clinic, Opp. Bai Avabai

- High School, Halar Road, Valsad-396001, Gujarat.
7. The Marine Products Export Development Authority, Sub Regional Centre (Aqua), Plot No. 161/1, 3rd Floor, Ultadanga, VIP Road, Kolkata-700054, West Bengal.
8. The Marine Products Export Development Authority, Trade Promotion Office, 101, Nirmal Tower, Barakhamba Road, New Delhi-110001.
9. The Marine Products, Export Development Authority, Regional Office, "Sukh Santhi" Building, 1st Floor, Bidya, Veraval-362269, Gujarat.

[No. E-11013/73/99-Hindi]
L. P. SAINI, Director (O.L.)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(खाद्य और सार्वजनिक वितरण विभाग)

आदेश

नई दिल्ली, 22 जुलाई, 2002

का.प्र. 2419.—यतः केन्द्रीय सरकार ने खाद्य विभाग, क्षेत्रीय खाद्य निदेशालयों, उपाप्ति निदेशालयों और खाद्य विभाग के वेतन तथा लेखा कार्यालय द्वारा किए जाने वाले खाद्यान्नों के क्रय, भण्डारण, संचालन, परिवहन, वितरण तथा विक्रय के कृत्यों का पालन करना बंद कर दिया है जोकि खाद्य निगम अधिनियम, 1964 (1964 का 37) की धारा 13 के अधीन भारतीय खाद्य निगम के कृत्य हैं।

और यतः खाद्य विभाग, क्षेत्रीय खाद्य निदेशालयों, उपाप्ति निदेशालयों और खाद्य विभाग के वेतन तथा लेखा कार्यालयों में कार्य कर रहे और उपरिर्णित कृत्यों के पालन में लगे निम्नलिखित अधिकारियों और कर्मचारियों ने केन्द्रीय सरकार के तारीख 16 अप्रैल, 1971 के परिपत्र के प्रत्युत्तर में उसमें विनिर्दिष्ट तारीख के अन्दर भारतीय खाद्य निगम के कर्मचारी न बनने के अपने आग्रह को उक्त अधिनियम की धारा 12ए की उपधारा (i) के परन्तुक द्वारा यथा प्रोक्षित सूचना नहीं दी है।

अतः अब खाद्य निगम अधिनियम, 1964 (1964 का 37) यथा अद्यतन संशोधित की धारा 12ए द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निम्नलिखित अधिकारियों और कर्मचारियों की प्रत्येक के सामने दी गई तारीख से भारतीय खाद्य निगम में स्थानांतरित करती है :—

क्र. सं. का नाम	अधिकारी/कर्मचारी	केन्द्रीय सरकार के अधीन किस पद पर स्थायी है ?	स्थानांतरण के समय केन्द्रीय सरकार के अधीन किस पद पर थे	भारतीय खाद्य निगम की स्था- नांतरण की तारीख
1	2	3	4	5
1.	श्री संकटा सिंह	चौकीदार	चौकीदार	1-3-1969
2.	श्री एन. प्रानन्द	डाइवर मैकेनिक	डाइवर मैकेनिक	1-3-1969

[सं. 21016/1/2002-एफ सी-3]

जगदेव लाल, उप सचिव

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Food and Public Distribution)

ORDER

New Delhi, the 22nd July, 2002

S.O. 2419.—Whereas the Central Government has ceased to perform the functions of purchase, storage, movement, transport, distribution and sale of food-grains done by the Department of Food, the Regional Directorates of Food, the Procurement Directors and the Pay and Accounts Offices of the Department of Food which under Section 13 of Food Corporations Act, 1964 (37 of 1964) are the functions of the food Corporation of India;

And whereas the following officers and employees serving in the Department of Food, the Regional Directorate of Food, the Procurement Directorates and the Pay and Accounts Offices of the Department of Food and engaged in the performance of the functions mentioned above have not, in response to the Circular of the Central Government dated the 16th April, 1971 intimated, within the date specified therein, their intention of not becoming employees of the Food Corporation of India as required by the proviso to Sub-section (I) of Section 12A of the said Act;

Now, therefore, in exercise of the powers conferred by Section 12A of the Food Corporations Act, 1964 (37 of 1964) as amended upto date the Central Government hereby transfer the following officers and employees to the Food Corporation of India with effect from the date mentioned against each of them.

Sl. No.	Name of the officer/employees	Permanent post held under the Central Government	Post held under the Central Government at the time of transfer	Date of transfer to the F.C.I.
1	2	3	4	5
1.	Sh. Sankatha Singh	Watchman	Watchman	01-03-1969
2.	Sh. N. Anand	Driver Mechanic	Driver Mechanic	01-03-1969

[No. 21016/1/2002-FC. 3]
JAGDEO LAL, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 9 जुलाई, 2002

का.आ. 2420.—सिध विश्वविद्यालय द्वारा प्रदत्त आयुर्विज्ञान अर्हता एम्बीबीएस भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) के प्रयोजन के लिए उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त अर्हता है ;

और डा. उर्मला जिनके पास उक्त अर्हता है, पूर्ण कार्य के प्रयोजन के लिए मातृश्री मेनिबेन देवचन्ददास चेरिटेबल ट्रस्ट, पालनपुर से संलग्न हैं न कि निजी लाभ के लिए ;

अतः अब उक्त अधिनियम की धारा 14 की उपधारा (1) के खण्ड (ग) के अनुसरण में केन्द्र सरकार एतद्वारा यह विनिर्दिष्ट करती है कि भारत में डा. उर्मला द्वारा चिकित्सा व्यवसाय की अवधि :-

(क) इस अधिसूचना के जारी होने की तारीख से छह महीनों की अवधि के लिए ; अथवा

(ख) उस अवधि तक जिसके दौरान डा. उर्मला मातृश्री मेनिबेन देवचन्ददास चेरिटेबल ट्रस्ट, पालनपुर से संलग्न हैं, जो भी लघुतर हो, परिसीमित होगी ।

[सं.वी. 11016/1/2002-एम.ई. (नोति-1)]

पी.जी. कलाधरण, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 9th July, 2002

S.O. 2420.—Whereas medical qualification MBBS granted by University of Sindh is a recognised medical qualifications for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act ;

And whereas Dr. Urmla who possesses the said qualification is attached to Matrushree Maniben Devchanddas Charitable Trust, Palanpur for the purpose of charitable work and not for personal gain ;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Urmla in India shall be limited to :-

(a) a period of six months from the date of issue of this notification ;

(b) the period during which Dr. Urmla is attached to Matrushree Maniben Devchanddas Charitable Trust, Palanpur, whichever is shorter.

[No. V-11016/1/2002-ME(Policy-1)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 10 जुलाई, 2002

का.आ. 2421.—औषधि एवं प्रसाधन सामग्री अधिनियम, 1940 (1940 का 23) की धारा 21 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्र सरकार एतद्वारा :

1. श्री संजीव कुमार

2. श्री गुलशन तनेजा

को उक्त अधिनियम के प्रयोजार्थ पूरे भारत के लिए निरीक्षकों के रूप में नियुक्त करती है ।

[संख्या ए.-12015/2/88-डॉ(खण्ड-III)]

नीता केजरीवाल, अवर सचिव

New Delhi, the 10th July, 2002

S.O. 2421.—In exercise of the powers conferred by Section 21 of the Drugs and Cosmetic Act, 1940 (23 of 1940), the Central Government hereby appoints :-

1. Shri Sanjeev Kumar

2. Shri Gulshan Taneja

as Inspectors for the purpose of the said Act for the whole of India

[No. A-12015/2/88-D(Vol -III)]

NITA KEJREWAL, Under Secy.

वस्त्र मंत्रालय

नई दिल्ली, 12 जुलाई, 2002

का.आ. 2422.—केन्द्रीय सरकार (संघ के शासकीय प्रयोजनों के प्रयोग के लिए) राजभाषा नियम, 1976 के नियम 10 के उपनियम 4 के अनुसरण में, केन्द्र सरकार, वस्त्र मंत्रालय के अन्तर्गत आने वाले निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारियों में हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :

1. इन्दुल कॉटेज इण्डस्ट्रीज कॉरपोरेशन ऑफ इण्डिया लिमिटेड, 144, एम.जी. रोड, बंगलौर-560001

2. भारतीय कपास निगम लिमिटेड,
11-22-1258, पहली मंजिल,
पोचम्मा मैदान चौरास्ता,
नरसमपेट रोड,
वारंगल-506012

3. पटसन आयुक्त का कार्यालय,
20 बी, अब्दुल हमीद स्ट्रीट,
5वीं एवं 7वीं मंजिल,
कोलकाता-700069

4. बुनियादी बीज गुणन एवं प्रशिक्षण केन्द्र,
कैतअवप्रसं, केन्द्रीय रेशम बोर्ड,
किराई, सुंदरगढ़-770073 उड़ीसा

[सं. ई-11016/1/99-हिन्दी]

सुधीर भार्गव, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 12th July, 2002

S.O. 2422.—In pursuance of Sub-rule 4 of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies the following offices under the Ministry of Textiles whereof more than 80 per cent staff have acquired working knowledge of Hindi:—

1. Central Cottage Industrial Corporation of India Ltd., 144, M. G. Road, Bangalore-560001.
2. Cotton Corporation of India, 11-22-1258, 1st Floor, Pochamma Maidan Chourasta, Narsampet Road, Warangal-506012.
3. Office of the Jute Commissioner, 20B, Abdul Hameed Street, 5th and 7th Floor, Kolkata-700069.
4. Basic Seed Multiplication and Training Centre, CTR&T, Central Silk Board, Kirai, Sundergarh-770073, (Orissa).

[No. E-11016/1/99-Hindi]
SUDHIR BHARGAV, Jt. Secy.

विद्युत मंत्रालय

नई दिल्ली, 2 जुलाई, 2002

का.आ. 2423.—सार्वजनिक स्थान (अप्रशिक्षित अभिशोषण की वेदखली), अधिनियम, 1971 (1971 का 40) की धारा 3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए सरकार एतद्वारा नीचे दी गयी तालिका के कॉलम (1) में उल्लिखित एक सांविधिक निगम नेशनल थर्मल पावर कारपोरेशन लिमिटेड के अधिकारी जो कि भारत सरकार के राजपत्रित अधिकारी के समकक्ष हैं, को कथित अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है जो उल्लिखित तालिका के कॉलम 2 से संबंधित प्रविष्टि में निर्दिष्ट सार्वजनिक स्थानों की श्रेणियों के बारे में कार्यक्षेत्रों की स्थानीय सीमाओं के भीतर कथित अधिनियम के अन्तर्गत अथवा उसके अन्तर्गत सम्पदा अधिकारी को प्रदत्त शक्तियों का उपयोग

कर सकेगा और सम्पदा अधिकारी को सौंपे गए कर्तव्यों का पालन करेगा :—

तालिका

क्र.सं.	अधिकारी का नाम व पद	सार्वजनिक स्थलों की श्रेणियों तथा क्षेत्राधिकार की सीमा
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|----|---|---|
| 1. | श्री पी. एन. सिंह, वरिष्ठ अधिकारी (मानव संसाधन), सीपत सुपर थर्मल पावर प्रोजेक्ट, नेशनल थर्मल पावर कारपोरेशन | सीपत सुपर ताप विद्युत परियोजना, पो.ओ. सीपत, जिला बिलासपुर-495558 छत्तीसगढ़ के स्वामित्व वाले पट्टे और किराये पर ली गई सभी भूमि, क्वार्टर्स परिसम्पत्तियों और अन्य आवास। |
|----|---|---|

[फा.सं. 8/6/1992-थर्मल-1]

डा. के. वी. जैकब, उप सचिव

MINISTRY OF POWER

New Delhi, the 2nd July, 2002

S.O. 2423.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below being officer of the National Thermal Power Corporation Limited, a statutory corporation and equivalent to the rank of Gazetted Officer of the Government of India, to be estate officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on the Estate Officer by or under the said Act, within the local limits of jurisdictions in respect of the categories of public premises specified in the corresponding entry in column (2) of the said Table:—

Table

S. No.	Name and designation of the officer	Categories of public premises and local limits of jurisdiction
1	2	3
1.	Shri P.N. Singh, Senior Officer (Human Resources), Sipat Super Thermal Power Project, National Thermal Power Corporation.	All land, quarters, estate properties and other accommodation owned, leased and rented by Sipat Super Thermal Power Project P.O. Sipat District Bilaspur, 495558, Chhattisgarh.

[F. No. 8/6/1992-Th.I]

Dr. K.V. JACOB, Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 11 जुलाई, 2002

का. आ. 2424—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि कुरुक्षेत्र से सहारनपुर तक पेट्रोलियम पदार्थों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा विद्यमान मथुरा-जालंधर पाइपलाइन से एक शाखा पाइपलाइन बिछाई जाए;

और, यह प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि में उपयोग के अधिकार का अर्जन करना आवश्यक है;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और स्वनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां जनसाधारण को उपलब्ध करा दिए जाने की तारीख से इक्कीस (21) दिन के भीतर, उनमें उपयोग के अधिकार का अर्जन या भूमि के नीचे पाइपलाइन बिछाने के सम्बन्ध में श्री लोकेन्द्र पाल सिंह, सक्षम प्राधिकारी, सोनीपत-मेरठ और कुरुक्षेत्र-सहारनपुर पाइपलाइन प्रोजेक्ट, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, के-33 पल्लवपुरम, फेस-2 मेरठ को लिखित में आक्षेप कर सकेगा।

अनुसूची

तहसील-नकुड़		जिला- सहारनपुर		राज्य - उत्तर प्रदेश	
गांव का नाम	चक नं०	खसरा नं०	क्षेत्रफल		
			हेक्टेयर	आर	वर्ग मीटर
1	2	3	4	5	6
धोलापड़ा	17	593	0	00	14
		1838	0	00	56
	20	1844	0	00	14
	421	1838	0	02	12
		1844	0	00	42
	424	446	0	03	35

1	2	3	4	5	6
	523	548	0	03	02
		591	0	00	67
	676	900	0	01	84
		902	0	02	10
		903	0	02	49
		904	0	01	05
		905	0	01	17

[फ़ा. सं. आर-25011/12/2002-ओ.आर-1]

एस.एस. केमवाल, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 11th July, 2002

S. O. 2424.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Kurukshetra to Saharanpur, a branch pipeline should be laid, from existing Mathura Jalandhar Pipeline by Indian Oil Corporation Limited.;

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed to this notification.;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.;

Any person interested in the land described in the said schedule may within Twenty One (21) days from the date on which the copies of this notification as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Lokendra Pal Singh, Competent Authority, Sonipat-Meerut and Kurukshetra-Saharanpur Pipeline Project, Indian Oil Corporation Limited, K-33 Pallavpuram, Phase-II, Meerut.

Schedule

Tehsil -Nakur		District - Saharanpur		State- Uttar Pradesh	
Name of Village	Chak No.	Khasra No.	Area		
			Hectare	Are	Sq. Meter
1	2	3	4	5	6
Dholapra	17	593	0	00	14
		1838	0	00	56
	20	1844	0	00	14
		421	1838	0	02
		1844	0	00	42
		424	446	0	03
	523	548	0	03	02
		591	0	00	67
	676	900	0	01	84
		902	0	02	10
		903	0	02	49
		904	0	01	05
		905	0	01	17

[No. R-25011/12/2002-O.R.-I]
S.S. KEMWAL, Under Secy.

भई दिल्ली, 22 जुलाई, 2002

का. आ. 2425.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्यां का. आ. 132 तारीख 16 जनवरी, 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा जामनगर-भोपाल पाइपलाइन परियोजना के माध्यम से गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपाल तक पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 14, 28 और 30 मार्च 2002 और 10 अप्रैल 2002 को उपलब्ध करा दी गई थीं ;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर उक्त भूमि जो इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट है पाइपलाइन बिछाने के लिए अपेक्षित है, में उपयोग के अधिकार का अर्जित करने का विनिश्चय किया है ;

अतः, अब केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार अर्जित किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि के उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एवं इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची				
तहसील: सीहोर	जिला: सीहोर	राज्य: मध्य प्रदेश		
गाँव का नाम		क्षेत्रफल		
	सर्वे नंबर	हेक्टर	आरे	सि-आरे
1	2	3	4	5
1. दुपाड़िया भील	157/2	0	36	10
प.ह.नं. 45	179/1	0	48	60
	250	0	23	00
	252	0	19	20
	253,255,256, 324/258/2	0	07	80
	253,255,256, 324/258/4	0	25	40
	253,255,256, 324/258/6	0	21	50
	311/2	0	18	20
	157/1	0	04	00
	157/3	0	13	00
	158/1	0	14	30
	158/2	0	20	10
	257/2	0	37	80
2. चोंड़ी	13	0	03	80
प.ह.नं. 45	14/3	0	51	50
	16	0	01	10
	11/1/2	0	18	50

1	2	3	4	5
3. सेवनिया	88/2	0	10	10
प.ह.नं. 38	82	0	64	80
	48/2	0	16	30
	49/3	0	00	08
	50/3	0	25	80
	51	0	59	40
	45	0	52	60
	203	0	04	10
	204	0	43	20
	206	0	50	40
	52/1	0	29	60
	42/1	0	04	40
	43/1	0	08	00
	43/2	0	06	00
	43/3	0	13	00
	43/4	0	05	00
	43/5	0	12	30
	5/2/2	0	03	00
	5/2/3	0	16	30
	40/1/1ग/1	0	29	70
4. डेन्डी	29	0	37	70
प.ह.नं. 33	26/1	0	37	40
	26/2	0	00	30
	34/1	0	01	40
	24	0	10	10
	23	0	22	70
	20	0	01	80
	6/3	0	21	70
	6/2	0	03	10
	7	0	09	30
	9	0	13	40
	11	0	14	00
	159/160/2	0	36	10
	5/2	0	00	60
	5/4	0	08	40
	163/1	0	02	90
	159-160/1	0	02	00
	33	0	00	50
	25/1	0	32	30
	10/1	0	04	40
	12/1	0	12	50
	12/2	0	21	70
	2, 27, 28/1	0	75	80

1	2	3	4	5 ✓
5. बिजौरा	30	0	56	30
प.ह.नं. 39	184/63	0	17	90
	63	0	27	20
	55	0	27	10
	53	0	07	70
	188/161/1	0	65	50
	59	0	19	80
	31/6	0	06	00
	31/4	0	08	00
	31/7	0	08	00
	31/1	0	35	40
	62/1	0	00	80
	62/2	0	13	00
	56/4	0	12	80
	56/3	0	20	00
	52/2	0	35	90
	48/2	0	14	50
	44/1	0	11	00
6. अमरोड	16/2	0	14	50
प.ह.नं. 45	17	0	39	00
	16/1	0	05	80
	18	0	25	10
	14/1	0	20	40
	19/1,23/2/1	0	20	40
	19/1,23/2/2	0	11	10
	9	0	70	30
	130/5	0	12	10
	129/6	0	21	80
	129/5	0	28	10
	148	0	05	30
	142	0	28	60
	175/1	0	42	70
	177/1/1	0	38	00
	12/1	0	12	30
	176/2	0	20	00
	176/3	0	09	90
	126/1	0	00	20
	137/1/1	0	01	30
	181/1	0	43	70

New Delhi, the 22th July, 2002

S. O. 2425.—Whereas, by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 132 dated the 16th January, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of regassified liquefied natural gas through the Jamnagar-Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on 14th, 28th, 30th day of March, 2002 and 10th day of April, 2002.

And whereas the competent authority has under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And further, whereas, the Central Government has, after considering the said report, and on being satisfied that the said land is required for laying the pipeline and has decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired, for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited, free from all encumbrances.

1	2	3	4	5
SEVNIYA (Cont'd)	5/2/2	0	03	00
	5/2/3	0	16	30
	40/1/1G/1	0	29	70
4. DENDI	29	0	37	70
P.C.NO - 33	26/1	0	37	40
	26/2	0	00	30
	34/1	0	01	40
	24	0	10	10
	23	0	22	70
	20	0	01	80
	6/3	0	21	70
	6/2	0	03	10
	7	0	09	30
	9	0	13	40
	11	0	14	00
	159/160/2	0	36	10
	5/2	0	00	60
	5/4	0	08	40
	163/1	0	02	90
	159-160/1	0	02	00
	33	0	00	50
	25/1	0	32	30
	10/1	0	04	40
	12/1	0	12	50
	12/2	0	21	70
	2,27,28/1	0	75	80
5. BIJORA	30	0	56	30
P.C.NO - 39	184/63	0	17	90
	63	0	27	20
	55	0	27	10
	53	0	07	70
	188/161/1	0	65	50
	59	0	19	80
	31/6	0	06	00
	31/4	0	08	00
	31/7	0	08	00
	31/1	0	35	40
	62/1	0	00	80
	62/2	0	13	00
	56/4	0	12	80
	56/3	0	20	00

1	2	3	4	5
BIJORA (Cont'd)	52/2	0	35	90
	48/2	0	14	50
	44/1	0	11	00
6. AMROD	16/2	0	14	50
P.C.NO - 45	17	0	39	00
	16/1	0	05	80
	18	0	25	10
	14/1	0	20	40
	19/1,23/2/1	0	20	40
	19/1,23/2/2	0	11	10
	9	0	70	30
	130/5	0	12	10
	129/6	0	21	80
	129/5	0	28	10
	148	0	05	30
	142	0	28	60
	175/1	0	42	70
	177/1/1	0	38	00
	12/1	0	12	30
	176/2	0	20	00
	176/3	0	09	90
	126/1	0	00	20
	137/1/1	0	01	30
	181/1	0	43	70

[No. L. 14014/31/2001-G.P.]
SWAMI SINGH, Director

नई दिल्ली, 22 जुलाई, 2002

का. आ. 2426.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपाल तक पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाई जाने के लिए उपयोग के अधिकार के अर्जन के संबंध में श्री एन. एस. कनेश, सक्षम प्राधिकारी, जी.टी. आई. सी. एल, पाइपलाइन परियोजना, भू तल, 24 अ, चन्द्रनगर, ए0 बी0 रोड, इन्दौर-452008 को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : बदनावर

जिला : धार

राज्य : मध्यप्रदेश

गांव का नाम

सर्वे नंबर

क्षेत्रफल

हेक्टेयर

आरे

सेन्टीयर

1	2	3	4	5
1.जीराखान	233/1	0	4	75
	233/2	0	0	45
2.इन्द्रायन	499/63/1/1	1	0	10
3.कड़ोद कला	333/1074	0	6	85
4.बामन्दा बड़ा	95/5	0	18	30
	14/1/1/4	0	0	85
5.कड़ोद खुर्द	36/4/2	0	8	60
6.रंगाराखेड़ी	277/3	0	17	5
	277/4	0	14	35
7.सनावदा	183/2/2	0	0	55
	13/2	0	5	45
8.सिलोदा बुजुर्ग	316/1	0	11	15
	316/2/1	0	35	85
	316/2/2	0	39	55
	71/4	0	0	15
9.नागोरा	387	0	34	35

उपरोक्त सर्वे नंबर पूर्व में का.आ. 209 दिनांक 22.01.2002 में सम्मिलित नहीं है ।

फा. सं. एल. 14014/33/2001-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 22th July, 2002

S. O. 2426.— Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of the regassified liquefied natural gas from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh a pipeline should be laid by Gas Transportation and Infrastructure Company Limited for implementing Jamnagar Bhopal pipeline project ;

And, whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline, is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri N.S.Kanesh, Competent Authority, GTICL Pipeline Project, Ground floor, 24-A Chandra Nagar, A.B.Road, Indore-452008.

SCHEDULE

Tehsil : Badnawar

District : Dhar

State : Madhya Pradesh

Name of the Village	Survey No.	AREA		
		Hectare	Are	C-Are
1	2	3	4	5
1.CHIRAKHAN	233/1	0	4	75
	233/2	0	0	45
2.INDRAWAL	499/63/1/1	1	0	10
3.KADOD KALA	333/1074	0	6	85
4.BAMNDA BADA	95/5	0	18	30
	14/1/1/4	0	0	85
5.KADOD KHURD	38/4/2	0	8	60
6.RANGARA KHEDI	277/3	0	17	5
	277/4	0	14	35
7.SANAVADA	183/2/2	0	0	55
	13/2	0	5	45

223049/12

1	2	3	4	5
8.SILODA BUJURG	316/1	0	11	15
	316/2/1	0	35	85
	316/2/2	0	39	55
	71/4	0	0	15
9.NAGORA	387	0	34	35

The above Survey numbers have not appeared earlier vide S.O.209 dated 22.01.2002

[No. L. 14014/33/2001-G.P.]
SWAMI SINGH, Director

नई दिल्ली, 22 जुलाई, 2002

का.आ. 2427.— केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पेट्रोलियम और प्राकृतिक गैस मंत्रालय, भारत सरकार की अधिसूचना सं० का० आ० 209 तारीख 22 जनवरी, 2002 जो भारत के राजपत्र तारीख 26-01-2002 के भाग भाग 2, खंड 3, उपखंड (ii) के पृष्ठ 695 से 707 में प्रकाशित की गई थी निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना की इस अनुसूची में :-

- (क) (i) पृष्ठ 696 पर पंक्ति 10 में स्तंभ 1 में "धीराखान" गाँव के सामने स्तंभ 2 में सर्वे नम्बर "94" के सामने, स्तंभ 3, 4, और 5 में क्षेत्रफल "0-18-60" के स्थान पर क्षेत्रफल "0-30-90" रखे जाएँगे ;
- (ii) पृष्ठ 696 पर पंक्ति 12 में स्तंभ 1 में "धीराखान" गाँव के सामने सर्वे नम्बर "94" के सामने की सभी विद्यमान प्रविष्टियाँ हटा दी जायेगी ;
- (iii) पृष्ठ 696 पर स्तंभ 1 में "धीराखान" गाँव के सामने स्तंभ 2 में सर्वे नम्बर "314" के सामने स्तंभ 3, 4, और 5 में क्षेत्रफल "00-00-05" के स्थान पर क्षेत्रफल "00-03-25" रखा जायेगा ;
- (vi) पृष्ठ 697 पर स्तंभ 1 में "धीराखान" गाँव के सामने, स्तंभ 2 के सर्वे नम्बर "1446" के सामने, स्तंभ 3, 4, और 5 के क्षेत्रफल "00-01-05" के स्थान पर क्षेत्रफल "00-01-60" रखा जायेगा ;
- (ख) (i) पृष्ठ 698 पर स्तंभ 1 में "इन्द्रावल" गाँव के सामने, स्तंभ 2 के सर्वे नम्बर "100" के सामने स्तंभ 3, 4, और 5 के क्षेत्रफल "00-07-70" के स्थान पर क्षेत्रफल "00-10-55" रखा जायेगा ;
- (ii) पृष्ठ 698 पर स्तंभ 1 में "इन्द्रावल" गाँव के सामने स्तंभ 2 के सर्वे नम्बर "101" के सामने स्तंभ 3, 4, और 5 के क्षेत्रफल "00-20-05" के स्थान पर क्षेत्रफल "00-31-05" रखा जायेगा ;

- (ग) पृष्ठ 700 पर स्तंभ 1 में "कडोद कला" गाँव के सामने, स्तंभ 2 के सर्वे नम्बर "343/1" के सामने स्तंभ 3, 4, और 5 के क्षेत्रफल "00-97-05" के स्थान पर क्षेत्रफल "01-03-80" रखा जायेगा ;
- (घ) पृष्ठ 702 पर स्तंभ 1 में "नागदा" गाँव के सामने, स्तंभ 2 के सर्वे नम्बर "55" के सामने स्तंभ 3, 4, और 5 के क्षेत्रफल "00-30-80" के स्थान पर क्षेत्रफल "00-31-50" रखा जायेगा ;
- (ङ) (i) पृष्ठ 703 पर पंक्ति 22 में स्तंभ 1 में "माकनी" गाँव के सामने, स्तंभ 2 के सर्वे नम्बर "21" के सामने स्तंभ 3, 4, और 5 के क्षेत्रफल "00-04-10" के स्थान पर क्षेत्रफल "00-18-55" रखा जायेगा ;
- (ii) पृष्ठ 703 पर पंक्ति 23 में स्तंभ 1 में "माकनी" गाँव के सामने सर्वे नम्बर "21" के सामने सभी विद्यमान प्रवृष्टियाँ हटा दी जायेंगी ;

फ़ा. सं. एल. 14014/33/2001-जी.पी.]
स्वामी सिंह, निदेशक

New Delhi, the 22th July, 2002

S. O. 2427.— In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 209, dated the 22nd January, 2002, published at pages 707 to 717 in Part II, section 3, sub-section (ii) of the Gazette of India, dated the 26th January, 2002, namely:-

In this Schedule to the said notification:-

- a) (i) at page 708, against village "Chirakhan" in column 1 in line 10, in Survey No. "94" in column 2, for the areas "00-18-60" in columns 3, 4 and 5, the areas "00-30-90" shall be substituted;
- (ii) at page 708, against village "Chirakhan" in column 1 in line 12, in Survey No 94" all the existing entries shall be deleted;

- (iii) at page 708 against village "Chirakhan" in column 1, in Survey No."314" in column 2, for the areas "00-00-05" in columns 3,4 and 5, the areas "00-03-25", shall be substituted;
- (iv) at page 709, against village "Chirakhan" in column 1, in Survey No."1446" in column 2, for the areas "00-01-05" in columns 3,4 and 5, the areas "00-01-50", shall be substituted;
- b) (i) at page 709, against village "Indrawal" in column 1, in Survey No."100" in column 2, for the areas "00-07-70" in columns 3,4 and 5, the areas "00-10-55, shall be substituted;
- (ii) at page 709, against village "Indrawal" in column 1, in Survey No."101" in column 2, for the areas "00-20-05" in columns 3,4 and 5, the areas "00-31-05, shall be substituted;
- c) at page 711, against village "Kadod Kala" in column 1, in Survey No."343/1" in column 2, for the areas "00-97-05" in columns 3,4 and 5, the areas "01-03-80", shall be substituted;
- d) at page 713, against village "Nagda" in column 1, in Survey No."55" in column 2, for the areas "00-30-60" in columns 3,4 and 5, the areas "00-31-50", shall be substituted;
- e) (i) at page 714, against village "Makani" in column 1 in line 22, in Survey No."21" in column 2, for the areas "00-04-10" in columns 3,4 and 5, the areas "00-18-55", shall be substituted;
- (ii) at page 714, against village "Makani" in column 1 in line 23, in Survey No."21" all the existing entries shall be deleted.

अध्यक्ष मंत्रालय

नई दिल्ली, 24 जून, 2002

का.प्रा. 2428:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 119/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-6-2002 को प्राप्त हुआ था।

[सं. एल-40012/91/98-आईआर(डीयू)]

अजय कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 24th June, 2002

S.O. 2428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 119/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Postal Department and their workman, which was received by the Central Government on 24-6-2002.

[No. L-40012/91/98-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Thursday, the 13th June, 2002

PRESENT :

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. 119/2001

(Tamil Nadu State Industrial Tribunal I.D.

No. 85/99)

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri E. Chinna-sami and the Management of the Director, Postal Services and the Superintendent of Post Offices.)

BETWEEN

Sri E. Chinna-samy. . . I Party/Workman.

AND

1. The Director, . . . II Party/Management.

Postal Services, Coimbatore.

2. The Superintendent of Post Offices,

Dharmapuri District.

2220 GI/2002-5

APPEARANCES :

For the Workman : M/s. S. Ravi and R. Prasadh,
Advocates.For the Management : Sri R. Rajendra
Narasimhan, ACGSC.

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned dispute for adjudication vide Order No. L-40012/91/98/IR(DU) dated 26-4-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 85/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 119/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 31-1-2001 with their respective parties and to prosecute this case further. Accordingly the learned counsel on either side along with their respective parties have appeared and prosecuted this case further.

When the matter came up before me for final hearing on 8-5-2002, upon perusing the Claim Statement, Counter Statement, the other material papers on record, the documentary evidence let in on the side of the I Party/Workman, and this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows :—

“Whether the action of the management of the Director, Postal Services, Coimbatore and the Superintendent of Post Offices, Dharmapuri District in dismissing Shri E. Chinna-sami from service is legal and justified? If not, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri E. Chinna-sami (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner was working as Branch Post Master at Vaniyambadi Branch Office and had put in nine years of service. He was removed from service by an order dated 24-6-92 of the Superintendent of Post Offices, Dharmapuri Division. On 24-10-98 the Sub-Divisional Inspector, Dharmapuri East Sub-Division visited Maniambadi and obtained statement from Mrs. Payammal, her son and three other villagers. He had also obtained statement from the Petitioner. The Petitioner was coerced to give such statement at the threat of handing over to police. The Petitioner had no other option except to give the statement, as desired by the Sub-Divisional Inspector. Hence, the statement

given by him is not binding on him. An enquiry was conducted against the Petitioner, which was not fair and proper. The Enquiry Officer has taken the role of prosecuting officer and put leading questions to the Petitioner and extensively cross examined the Petitioner and of 12 witnesses. It was against the principles of natural justice and hence the enquiry is not valid. The charges levelled against the Petitioner that he failed to credit Rs. 2,500 in S.B. Account of Smt. Paiyammal. The allegation is that on 7-8-91 Smt. Paiyammal deposited Rs. 2000 in her S.B. Account 650965 which the Petitioner, failed to credit but utilised the said amount for his own use. It is further alleged that again on 19-9-91 the Petitioner failed to credit Rs. 500 but taken the said amount for his own use and that on 7-8-91 he made entries in S.B. pass book of Smt. Paiyammal showing that Rs. 2000 has been deposited. But there was no corresponding entries in the post office accounts showing the deposit for Rs. 2000 and the balance amount shown in the S.B. pass book was Rs. 3,025. It is further stated that on 19-9-91 the account holder deposited Rs. 500 which was also not given credit and that to camouflage his misdeeds the Petitioner altered the dates in the pass book and manipulated the entries in the pass book as if Rs. 2500 was deposited on 19-10-91. Smt. Paiyammal, her son and three villagers, who gave the statements earlier on 24-10-91 have disowned them before the Enquiry Officer. There is absolutely no evidence to prove the charges. The findings of the Enquiry Officer was nothing but perverse. Accepting the findings of the Enquiry Officer, the Superintendent of Post Offices, Dharmapuri Division removed the Petitioner from service by his order dated 24-6-92. The appeal preferred by the Petitioner to the Director of Postal Services, Western Region, was dismissed. Thereafter the Petitioner filed O.A. No. 1556 of 1993 before the Central Administrative Tribunal, but later he withdrew the same on 14-2-95. Thereafter, he raised this dispute before the Assistant Labour Commissioner (Central), Chennai, which ended in failure and on submission of his failure report, the Government has referred this dispute to this Tribunal for adjudication. The findings of the Enquiry Officer is perverse as there is no legal evidence to prove the charges. The Enquiry Officer solely relied on the statement obtained on 24-10-91 by the Sub-Divisional Inspector, which were disowned by the maker's in the enquiry. Hence, there is absolutely no evidence to prove the charges. The Disciplinary Authority and the Appellate Authority without analysing the evidence properly, mechanically accepted the findings of the Enquiry Officer. Therefore, the removal from service is arbitrary, unjustifiable and illegal and hence, it is liable to be set aside. The part records of the Petitioner was not considered. Hence, this Tribunal may be pleased to pass an Award by setting aside the order of removal from service passed by the Respondent and to direct the Respondent to reinstate the Petitioner in service with back wages and all attendant benefits.

3. The averments in the common Counter Statement filed by the II Party I and II (hereinafter refers to as Respondents) are briefly as follows :—

On 24-2-98, the Sub Divisional Inspector, (Postal), Dharmapuri East Sub Division took up cent per cent verification of S.B./R.D. etc. accounts standing open at Maniambadi Branch Post Office under

Kadathur Sub Post Office under Dharmapuri Head Post Office. The Petitioner Sri E. Chinnasami was the then Branch Post Master of Maniambadi branch post office. During verification, the Sub Divisional Inspector noticed non-credit of deposits to the tune of Rs. 2,500 in S. B. Account No. KAD650965 in the name of Smt. Paiyammal as the deposit made on 7-8-91 Rs. 2000 and on 19-9-91 Rs. 500 were not brought into post office accounts. On 7-8-91, when the depositor tendered Rs. 2000 for deposit in her Post Office Account No. 650965, the Petitioner prepared the pay in slip himself made entries in the pass book struck the balance as Rs. 5,025 and returned the pass book. He did not bring the deposit into post office accounts. He did not also make any entry in the post office records and destroyed the pay-in-slip prepared by him. On 19-9-91 when the depositor made a deposit of Rs. 500 the Petitioner did not make any entry in the pass book and returned the pass book with him unauthorisedly on the plea that the pass book was to be forwarded to Dharmapuri Head Post Office for verification. He did not bring this deposit of Rs. 500 also in the post office accounts. He did not make entries of deposit in the pass book as also in the post office accounts. He did not also issue the receipt in form S.B.-28 for collection of the pass book from the depositor, though he prepared S.B.-28 receipt No. 6 dated 20-9-91 for the said account, noting a balance of Rs. 5,025 in the depositor's copy and a balance of Rs. 3,025 in the office copy. He returned the pass book to the depositor on 1-10-91. On 19-10-91 the depositor perused her pass book hearing the postal officials were conducting verification and found that the deposit of Rs. 500 made on 19-9-91 was not entered in the pass book. When she approached the Petitioner and enquired about the incidents, the Petitioner corrected the last deposit entry of Rs. 2000 made on 7-8-91 as Rs. 2,500 and the balance from Rs. 5,025 to Rs. 5,525 and the date of 7-8-91 to 19-10-91. He manipulated the date stamp impression also and returned the pass book to the depositor. During enquiry on 24-10-91 the Petitioner had promised to credit the defrauded amount of Rs. 2,500 in the post office accounts. He was put off duty on 26-9-91 afternoon by the Sub Divisional Inspector (Postal) Dharmapuri East Sub-Division, which was ratified by the 2nd Respondent on 28-10-91. The Petitioner credited this amount of Rs. 2,500 towards the amount misappropriated at Kadathur Sub Post Office under receipt No. 79 dated 25-10-91 in form ACG-67. He also credited a penal interest of Rs. 39.10 under receipt No. 82 in form ACG-67 at Kadathur Sub-Post Office on 23-11-91. The Petitioner was charge-sheeted on the above two charges under Rule 8 of F.D. Agents (Conduct & Service) Rules, 1964. In his representation dated 24-12-91 for the charge memo dated 17-12-91 issued to him, the Petitioner denied the charges and hence an oral enquiry was ordered. After the enquiry, the Enquiry Officer submitted his report holding that both the charges against the Petitioner has proved beyond doubt. The Petitioner has submitted his representation on the Enquiry Officer's report. After taking into consideration, the Enquiry Officer's report, the representation of the Petitioner for the Enquiry Officer's report and all relevant records, the 2nd Respondent issued an order dated 24-6-92, removing the Petitioner from service. Then the appeal preferred by the Petitioner

to the 1st Respondent against the punishment of removal from service was rejected and the order of removal from service of the Petitioner passed by the 2nd Respondent was confirmed. Then the Petitioner filed a case in O.A. No. 1556/93 in the Central Administrative Tribunal, Madras. The Tribunal dismissed that application of the Petitioner as withdrawn by the Petitioner. Thereafter the Petitioner has raised this industrial dispute. The Petitioner was removed from service by the 2nd Respondent after observing the departmental procedures on disciplinary cases. The averment of the Petitioner that the Sub Divisional Inspector, Dharmapuri East Sub Division got the statement of the Petitioner under coercion and threat is not correct. The statements given by them are statements of facts. The statements given by the depositor and others at the time of preliminary enquiry were not supported by them just to help the Petitioner at the instance of the Petitioner. The oral enquiry conducted by the Enquiry Officer was fair and proper as enjoined in the rules of the department. The Petitioner did not take steps to prepare a biased petition and demand change of Enquiry Officer which is expressly provided for in the rules. This goes to prove that the said averment of the Petitioner is not correct. Apart from the witnesses disowning their earlier statements in the preliminary enquiry, there are other documentary evidence to substantiate the charges clearly. The Enquiry Officer had arrived at his findings after a detailed analysis of the case. There was no need to get expert's opinion about the over writings in the pass book for the entries made on 19-10-91 as a charge that overwriting in the pass book were made by the Petitioner has proved during the enquiry. The standard of proof required in the departmental enquiry is that of preponderance of probability and not proof beyond reasonable doubt. Agreeing with the findings of the Enquiry Officer, the 2nd Respondent issued orders for removal of the Petitioner from service. The functions of the Enquiry Officer being quasi-judicial in nature, his findings cannot be challenged unless there were some procedural lapses in conducting the enquiry. There were sufficient documentary evidence to prove the charges. The averment that the 1st Respondent and the 2nd Respondent mechanically acted on the findings of the Enquiry Officer is not correct. The order of removal of the Petitioner from service is justified. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the claim of the Petitioner.

4. When the matter was taken up for enquiry, no one has been examined on either side as a witness. The documents filed on the side of the Petitioner were marked as Ex. W1 to W7 by consent. No document has been filed on the side of the Respondent. The learned counsel for the II Party alone has advanced his argument, in spite of the case has been adjourned to various dates from 19-3-2002 to 8-5-2002 giving opportunity for the counsel for the I Party/Petitioner to advance his argument, he has not chosen to appear before this Tribunal to advance his arguments. Hence, on 8-5-2002 holding the counsel for the I Party has no arguments to advance in this case, orders was reserved for deciding the matter on merits, on the basis of the argument advanced by the learned counsel for the II Party/Mnagemnt and on the available materials on record.

5. The point for my consideration is—

“Whether the action of the management of the Director, Postal Services, Coimbatore and the Superintendent of Post Offices, Dharmapuri District in dismissing Shri E. Chinna-sami from service is legal and justified? If not, to what relief the workman is entitled?”

Point:—

It is admitted that the Petitioner was working as Branch Post Master at Manjambadi branch office. It is not disputed that the Sub Divisional Inspector (Postal) Dharmapuri East Sub Division took up inspection of that branch post office on 24-10-91 and verified the records. On verification, he found some discrepancies in the S.B. Account of Smt. Paiyammal in respect of entries for the deposited amounts along with the records maintained in that post office maintained by the Petitioner. As a result of that inspection made by the official, the Petitioner was issued a charge memo dated 17-12-91 by the Superintendent of Post Offices, Dharmapuri Division. The xerox copy of the same is Ex. W1. In pursuance of the issuance of the charge memo, an enquiry was conducted by the Respondent/Department. The xerox copy of the enquiry proceedings is Ex. W2. On conclusion of the enquiry conducted by the Enquiry Officer and submission made by either side before him and after considering the materials placed before him both oral as well as documentary evidence on either side, the Enquiry Officer has submitted his report dated 4-4-92. The xerox copy of the same is Ex. W3. On that Enquiry Officer's report, the Petitioner as a delinquent employee has made his written submission dated 30-4-92. The xerox copy of the same is Ex. W4. The Superintendent of Post Offices, Dharmapuri Division, after perusing the report of the Enquiry Officer dated 4-4-92 and the written submission made by the Petitioner for the Enquiry Officer's report and other connected records, passed an order dated 24-6-92 stating that agreeing with the findings of the Enquiry Officer in respect of the charges of misconduct levelled against the Petitioner as they have been proved beyond doubt, he imposed the penalty of removing the Petitioner from service with immediate effect. The proceedings of the Superintendent of Post Offices, Dharmapuri Division dated 24-6-92 is Ex. W5. Against that order, the Petitioner has preferred an appeal to the Director of Postal Services, Western Region, Coimbatore. The xerox copy of the same is Ex. W6. The Appellate Authority has rejected that appeal by his order dated 11-12-92. The xerox copy of the same is Ex. W7. Then the Petitioner had filed O.A. No. 1556/93 before the Central Administrative Tribunal but withdrew the same later. So, that application was dismissed by the Central Administrative Tribunal on 14-2-95 as withdrawn. Aggrieved by the order passed by the Disciplinary Authority under Ex. W5 and the Appellate Authority under Ex. W7, the Petitioner has raised this industrial dispute, first before the conciliating authority, which ended in a failure. Later, Ministry was pleased to refer this dispute for adjudication by his Tribunal.

6. It is the contention of the Petitioner that the allegations made against him in the charge memo are

nothing but false and that the Sub Divisional Inspector obtained statements from the concerned S.B. account holder, her son and three other villagers and also from the Petitioner. It is his further averment that he was coerced to give such statement under the threat of handing over to police and since the Petitioner had no other option, except to give the statement as desired by the Sub Divisional Inspector, so, the said statement is not binding on him and further in the enquiry the persons who gave statement to Sub Divisional Inspector have disowned them and there is absolutely no evidence to prove the charges. Though such allegations have been made in the Claim Statement, the Petitioner has not chosen to examine himself as a witness before this Tribunal to establish his stand that the finding of the Enquiry Officer in his report was nothing but perverse and absolutely there was no evidence to prove the charges and the enquiry was not fair and proper. The perusal of Ex. W2 clearly shows that the Petitioner as delinquent employee has given the fair and proper opportunity to defend himself in the enquiry and the delinquent employee, the Petitioner has availed that opportunity in full by duly assisted by a defence assistant one Mr. P. Subramaniam. It is seen from the enquiry proceedings that the witnesses examined, though admitted the statements given before the Sub Divisional Inspector, have disowned them before the Enquiry Officer. The son of the S.B. account holder though stated in the Chief Examination that he only recorded the statement given by his Mother on 24-10-91 before the Dharmapuri East Sub Divisional Inspector, later in his evidence says that the said statement was given on presumption. Apart from the oral evidence given by the witnesses in the enquiry, the management has relied upon the documentary evidence placed before the Enquiry Officer to prove the charges levelled against the delinquent employee, the Petitioner herein. It is seen from records that statements of the witnesses have been recorded during the preliminary enquiry on 24-10-91. Though the Petitioner has alleged in the Claim Statement that he gave the statement before the Sub Divisional Inspector, Dharmapuri East Sub Division, at his threat of handing over to police and coercion, he has not chosen to examine himself as a defence witness to state the same before the Enquiry Officer. From this it is seen that only as an afterthought, the Petitioner has made one such allegation in his Claim Statement. After analysing both oral and documentary evidence, the Enquiry Officer has given his finding that there is sufficient material to hold that the charges levelled against the Petitioner have been proved beyond doubt. As observed by the Enquiry Officer in his report, if really, the statements have been obtained from the witnesses by the Sub Divisional Inspector, Dharmapuri East Sub Division under compulsion and those statements are false, those witnesses could have complained to the higher ups then and there. They have not chosen to refute their statements given to the inspector who have done the fact finding enquiry earlier, who have given their evidence before the Enquiry Officer. For his findings, the Enquiry Officer has given cogent and acceptable reasons basing on the documentary evidence. So it is incorrect to allege that the Enquiry Officer has given a finding in his report without any evidence and it is nothing but perverse. It is not the case of the Petitioner as

a delinquent employee that the documents relied upon by the department during the enquiry have been created for the purpose of proving the charges levelled against the Petitioner. Further, it is seen from the entire proceedings that the Petitioner has not been denied any reasonable opportunity to put forth his defence effectively before the Enquiry Officer as well as the Disciplinary Authority. After perusing the entire materials, and the report and the findings of the Enquiry Officer, the Disciplinary Authority in his order under Ex. W5 has stated that he agreed with the findings of the Enquiry Officer on both the charges that they have been proved beyond doubt. Further, he has stated that it is not safe for the department alone, the Petitioner as a fraudulent person to continue in the department. The Appellate Authority also in his order has clearly stated about his considering the entire material both oral and documentary evidence and had found that the Petitioner has initially admitted the fact of misconduct but during the course of the enquiry influenced by the delinquent employee, the Petitioner, the depositor has turned hostile and the Petitioner has also changed his version and the statement he gave to the Sub-Divisional Inspector was under duress and he had also found that it is only an afterthought and he does not agree with the argument of the delinquent that the charges are fabricated and orders of the Superintendent of Post Offices are motivated. But he is convinced that the appellant, Petitioner herein, is the guilty of charges and he does not find any merit in the appeal. From the available materials in this case, it is seen that the Petitioner as Branch Post Master at Maniambadi post office has misappropriated the depositors amount and after the preliminary enquiry has been conducted, he has repaid that amount on 25-10-91. He also paid penal interest on 23-11-91. But for the charge memo dated 17-12-91 issued an enquiry was conducted for the same, he repudiated those charges denying the alleged misconduct. Having admitted earlier by his own statement and repaid the misappropriated amount along with penal interest, the Petitioner as delinquent employee before the Enquiry Officer has taken a different stand denying the charges of misconduct levelled against him. The Enquiry Officer has found him guilty of the charges on the basis of the materials placed before him. Only to escape from the charges levelled against him for the proved misconduct, the Petitioner has taken a stand that the charges have been concocted and the Enquiry Officer has given a perverse finding and the charge memo dated 17-12-91 is nothing but false. This he has chosen to allege as an afterthought after repaid the amount and also the penal interest, subsequent to his statement to the officer who conducted the fact finding enquiry admitting his guilt. So under such circumstances, it cannot be said that the action of the management of Director of Postal Services, Coimbatore and the Superintendent of Post Offices, Dharmapuri Division in dismissing Sri E. Chinnasami from service is illegal and unjustified. So, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the I Party/Workman Sri E. Chinnasami is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th June, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Exhibits marked :—

For the I Party/Workman :

Ex. No.	Date	Description
W1	17-12-91	Xerox copy of the charge memo issued by the 2nd Respondent to the Petitioner.
W2	08-01-92	Xerox copy of the enquiry proceedings.
W3	04-04-92	Xerox copy of the Enquiry Officer's report.
W4	30-04-92	Xerox copy of the representation of the Delinquent employee on the Enquiry Officer's Report.
W5	23/24-06-92	Xerox copy of the order of removal from service Passed by the Superintendent of Post Offices.
W6	09-09-92	Xerox copy of the appeal preferred by the Petitioner before Director of Postal Service.
W7	11-12-92	Xerox copy of the order of 1st Respondent rejecting the appeal of the Petitioner.

For the II Party/Management :— Nil.

नई दिल्ली, 25 जून, 2002

का.घा. 2429—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 582/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2002 को प्राप्त हुआ था।

[सं. एल-40011/5/2001-आईआर (डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2002

S.O. 2429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 582/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Post and their workman, which was received by the Central Government on 25-6-2002.

[No. L-40011/5/2001-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Thursday, the 13th June, 2002

PRESENT :

K. KARTHIKEYAN, Presiding Officer.

Industrial Dispute No. 582/2001

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri S. M. Veeraiyan and the Management of Superintendent of Post Offices, Nagapattinam Division.)

BETWEEN

Sri S. M. Veeraiyan. . . I Party/Workman.

AND

The Superintendent of Post . . . II Party/Management.
Offices, Nagapattinam Division.

APPEARANCES :

For the Workman : Mr. S. Raveendran, Advocate.

For the Management : Mr. K. Sivajothi, ACGSC.

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned dispute for adjudication vide Order No. L-40011/5/2001/IR (DU) dated 27-4-01.

On receipt of Order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 582/2001 and notices were sent to the parties to the dispute with a direction to appear before this Tribunal on 18-6-2001 and to file their respective Claim Statement and Counter Statement. Accordingly, the learned counsel on either side on record along with their respective parties have appeared and filed the Claim Statement and Counter Statement respectively.

When the matter came up before me for final hearing on 20-5-2002, the counsel for the II Party alone was present and represented that the II Party/Management has no further evidence except the documents filed on their side and marked as Exs. M1 to M22 with the consent of the counsel for the I Party and he has filed his written arguments. Though the case has been adjourned twice till this date for the I Party counsel to advance his arguments, he has not turned up and no argument has advanced for the I Party. Then orders have been reserved for passing an award on merits with the available materials and records in this case.

Upon perusing the Claim Statement, Counter Statement, the other material papers on record, documentary evidence let in on the side of the II Party/Management, the written arguments filed by the learned counsel for the Respondent and this matter having stood over till this date for consideration, this Tribunal has passed, on merits the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows :—

"Whether the action of the management of Department of Posts, Nagapattinam Division, Nagapattinam in removing from service of

Shri S. M. Veeraiyan from the post of EDDA is justified? If not, to what relief the workman concerned is entitled?"

2. The averments in the Claim Statement filed by the I Party/Workman Sri S. M. Veeraiyan (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner joined duty in the year 1972 and served in the Respondent department for more than sixteen years without any adverse remarks for punishment. The Petitioner was issued with the charge memo dated 19-9-96 alleging acts of misconduct of non-payment of money orders to the payees during May, 1995 while he was working as EDDA, SO Sikkal. The Post Master General, Tiruchirappalli by his memo dated 6-3-96 appointed the Assistant Superintendent of Post Offices, Tiruvarur Sub-Division, as ad-hoc Disciplinary Authority as the normal Disciplinary Authority i.e. Assistant Superintendent of Post Offices, Nagapattinam Sub-Division, became the material witness. The Petitioner denied the charges levelled against him. The Enquiry Officer conducted a perfunctory enquiry violating the rules and denied the Petitioner due opportunity to defend his case. It is a violation of principles of natural justice, which made the whole enquiry vitiated. The Enquiry Officer submitted his report dated 27-5-99 holding that all the articles of charges levelled against the Petitioner are proved. Based on the Enquiry Officer's report, the Superintendent of Post Offices, Nagapattinam Division awarded the Petitioner a punishment of removal from service, which is excessive. Due to shock and mental agony, the Petitioner has not submitted any appeal. Immediately after the receipt of the charges, the Petitioner requested for supply of translated copy of the charge sheet in Tamil, the language known to him, which was refused. 20 documents were relied upon the proving the charges levelled against the Petitioner. Most of the documents have been obtained by the II Party behind the back of the Petitioner. Along with the charge sheet, copies of those documents were not sent. Thus, the Petitioner was denied reasonable opportunity in defending his case and it is a violation of principles of natural justice, which vitiates the whole proceedings. Statements of the witnesses were obtained behind the back of the Petitioner. The evidence recorded in the fact finding enquiry, in the absence of the Petitioner, ought not to have been brought to the proceedings. The non-compliance of the mandatory provisions contained in the decision taken by the Ministry of Home Affairs F. No. 39/12/16-EATSA made the enquiry vitiated. In the enquiry, only three documents were produced by the management, out of the eight documents requested by the Petitioner. Four out of those documents were kept out of access to the Petitioner on the ground that they are confidential and privileged. The charges against the Petitioner had not been proved on the basis of sound evidence and by producing legal opinion of the Hand Writing Expert. The punishment awarded is excessive and disproportionate. The preliminary enquiry report was not given to the Petitioner to prepare his defence and to cross examine the witnesses. The material witness Sri M. P. Dhurai was not examined. It is an inherent law in the procedure and method of conducting enquiry. When the signature of the payee is disputed, the Handwriting Expert opinion ought to have been obtained. Hence, it is prayed that this Tribunal may be pleased to hold that the enquiry was not conducted properly and hence,

the punishment imposed on the Petitioner to be quashed and to direct the Respondent to reinstate the Petitioner with all consequential and monetary benefits.

3. The averments in the Counter Statement filed by the II Party/The Superintendent of Post Offices, Nagapattinam Division (hereinafter refers to as Respondent) are briefly as follows :—

The Petitioner Sri S. M. Veeraiyan, Ex-EDDA Sikkal-TJSO had not paid the money orders to the payees for Rs. 2859 in respect of three money orders. But accounted them as duly paid to the payee during May, 1995, while he was working as EDDA, Sikkal SO. He was issued with the charge sheet by the ad-hoc Disciplinary Authority and Assistant Superintendent of Post Offices, Tiruvarur Sub-Division, under Rule 8 of P&T E.D. Agents (Conduct and Service) Rules, 1964. As per the charge memo, the Petitioner while working as EDDA, Sikkal, TJ SO on 30-5-95 did not pay the value of M.O. 207 dated 26-5-95 of Tiruchirappalli Fort for Rs. 1409 entrusted to him for payment payable to Sri G. H. Jagabala S/o. Hameed Sultan, North Street, Sikkal TJ, but accounted it as duly paid to the payee, contravening the provisions of Rules 121 and 127(1) of Postal Manual Volume 6 Part III, VI edition and thereby failed to maintain absolute integrity and devotion to duty as required under Rule 17 of ED agents (C & S) Rules, 1964 and that the Petitioner did not pay the value of M.O. 2115 dated 26-5-95 of Tirumayan for Rs. 200 payable to Sri A. M. Srinivasan Battacha entrusted to him for payment but accounted it duly paid to the payee by making forgery signature of the payee, that the Petitioner did not pay the value of M.O. No. 1770 of Coennoor dated 3-5-95 for Rs. 1250 payable to Sri M. P. Dhurai, South Street, Sikkal, TJ on 9-5-95 but accounted it as duly paid to the payee by making forgery signature of the payee and thereby contravening the provisions of Rules 121 and 127(1) of Postal Manual Volume 6, Part III, VI edition and thereby failed to maintain absolute integrity and devotion to duty as required under Rule 17 of ED agents (Conduct and Service) Rules, 1964. The Assistant Superintendent of Post Offices, Nagapattinam Sub-Division, who investigated this case collected statements from the payees and the EDDA. Hence, he became the material witness in this case against the Petitioner. So, the Post Master General, Central Region, Trichy by his memo dated 6-3-96 appointed the Assistant Superintendent of Post Offices, Tiruvarur Sub-Division, Tiruvarur empowering him to exercise the powers of the appointing authority in the matter of awarding any of the penalties specified in Rule 7 of EDDA (C&S) Rules, 1964. The Petitioner attended the enquiry and denied all the articles of charges before the Enquiry Officer, after having understood the contents of charges in vernacular. He requested 15 days time to nominate the defence assistant. All the reasonable opportunities were given to the Petitioner by the Enquiry Officer and on conclusion of the enquiry on 3-3-99, the Enquiry Officer submitted his report dated 27-5-99 holding all the three articles of charges framed against the Petitioner as proved. The Enquiry Officer's report was sent to the Petitioner for making his submissions. The extension of time requested by the Petitioner for making his submissions to the Enquiry Officer's report was given. Then the Petitioner has submitted his representation dated 22-6-99. After considering all the aspects

in this case and on application of his mind, the ADA issued orders dated 17-7-99 for the removal of the Petitioner from service. The enquiry under Rule 8 of E.D. Agents (Conduct and Service) Rules, 1964 was held properly by following the procedures giving adequate and reasonable opportunity to the Petitioner at all levels. Nowhere the rules were violated. During the preliminary sitting held on 1-8-97, the Petitioner himself gave evidence before the Enquiry Officer that he received the charge sheet dated 19-9-96 with annexures 1 to 4 and the Enquiry Officer read over the entire charge sheet and translated in Tamil and that he duly understood the contents of the charge sheet and that after knowing all the facts in the charge sheet, he denied all the three articles of charges. This is duly reflected in daily order sheet dated 1-8-97 signed by the Enquiry Officer, Presenting Officer and the Petitioner, charge sheeted agent. The Principles of natural justice were duly followed in this case. The Payees while giving statements have admitted that they have not received the amounts of Money Orders and that the signature found in the M.O. paid vouchers were not their own. Further, the Petitioner also admitted that he did not pay the amount of Money Order to the correct payees and that the signatures found in the M.O. paid vouchers were not of the correct payees. He admitted that he had utilised the amount of these three amounts for his personal use. During the course of enquiry, all the documents were shown to the Petitioner. He was also given opportunity to cross examine the prosecution witness to defend his side. The Enquiry Officer stated in his daily order sheet No. 8 dated 28-11-97 that the following documents were not admitted for the supply as these documents were confidential and privileged one and that these documents could not be made available for access to the Petitioner. The Petitioner did not raise any objection at this point. Now he says that he was not given reasonable opportunity by not giving the above said documents. When the payees and the charge sheeted agent admitted that the signatures found in the three M.Os. were not of the signatures of the actual payees, calling for expert opinion on the signatures found in the M.O. paid vouchers was not considered necessary. The standard of proof required in oral departmental enquiries is the preponderance of probability and not as proof beyond doubt as required in criminal cases disputed in a Court of Law. The Petitioner was given reasonable opportunity during the course of the enquiry as per rules to cross examine the witnesses and to go through the prosecution documents. The ADA after obtaining the Petitioner's representation on the report of the Enquiry Officer and after going through all the documentary evidences produced during the course of enquiry, issued the proceedings for removal of the Petitioner from service. The witness Sri A. N. Srinivasa Battacharya clearly admitted in his evidence when he was examined on 29-1-99 that the contents of the statements were given by him and after perusing the M.O. paid voucher No. 2115 dated 26-5-95 of Tirumayam for Rs. 200, had given evidence that the signature found in the M.O. paid voucher was not of his own and that he did not receive the M.O. amount on that date. The Presenting Officer was of the opinion that it was not practically possible to produce M.P. Dhurai for enquiry and that the other witnesses/prosecution documents may enough to prove the charges levelled against the Petitioner. Hence, he requested the Enquiry Officer to

dispense with that witness, though there is no inherent lacuna in the enquiry conducted. Hence, it is prayed that the claim of the Petitioner may be dismissed as devoid of merits on facts and on law.

4. When the matter was taken up for enquiry, no one has been examined on either side as a witness. No documentary evidence has been let in on the side of the I Party/Workman. Documents filed on the side of the II Party/Management have been marked as Exs. M1 to M22. The learned counsel for the II Party/Management alone has filed the written arguments.

5. The point for my consideration is—

“Whether the action of the management of Department of Posts, Nagapattinam Division, Nagapattinam in removing from service of Shri S. M. Veeraiyan from the post of EDDA is justified? If not, to what relief the workman concerned is entitled?”

POINT :—

It is admitted that the Petitioner Sri S. M. Veeraiyan worked as EDDA Sikkal SO during May, 1995. It is also admitted that the Petitioner was issued charge sheet dated 19-9-96 for his alleged misconduct of non-payment of money order amounts, three in numbers, to different payees, but accounted them, as duly paid to the payees and thereby contravend the provisions of the Postal Manual and thereby failed to maintain absolute integrity and devotion to duty as required under Rule 17 of E.D. Agents (Conduct and Service) Rules, 1964. The xerox copy of that charge memo dated 19-9-96 issued to the Petitioner is Ex. M20. Prior to the issuance of the charge memo a fact finding enquiry was conducted by Assistant Superintendent of Post Offices, Nagapattinam Sub-Division, Nagapattinam and statements of witnesses have been recorded in respect of the alleged misconduct of the Petitioner. On that day, the Petitioner also has given a written statement to the said Officer, who conducted the fact finding enquiry. The xerox copies of those documents and the concerned money order paid vouchers are Exs. M1 to M9. An enquiry has been conducted by the Respondent Department in respect of the charges levelled against the Petitioner under Ex. M20. The xerox copy of the daily order sheet maintained by the Enquiry Officer are Exs. M10 to M18. On conclusion of the enquiry, the Enquiry Officer has submitted his report dated 27-5-99 holding that the articles of charges 1 to 3 levelled against the Petitioner have been proved. The xerox copy of the Enquiry Officer's report is Ex. M21. On the basis of the report of the Enquiry Officer and after submission of the Petitioner's representation for the Enquiry Officer's report the ad-hoc Disciplinary Authority Assistant Superintendent of Post Offices, Tiruvarur Sub-Division, has passed the order against the Petitioner for removing him from service with immediate effect. The xerox copy of the proceedings dated 17-7-99 is Ex. M22. All these documents have been marked with the consent of the counsel for the Petitioner.

6. It is the contention of the Petitioner that the Petitioner as a delinquent employee was issued with a charge memo for his alleged misconduct has not been given reasonable opportunity to defend his case effectively and that the enquiry conducted by the Enquiry Officer is vitiated because the Petitioner has been deprived of his opportunity to prove his innocence and it is a violation of principles of natural jus-

tice. It is further contended that the Enquiry Officer has conducted the perfunctory enquiry violating the rules and the translated copy of the charge sheet in Tamil has not been furnished to him, in spite of his request and his access to some of the documents has been denied by the Enquiry Officer on the ground that they are confidential and privileged and that the charges have not been proved by producing the legal opinion of handwriting experts. It is further contended by the Petitioner that the ad-hoc Disciplinary Authority without application of mind and analysing the evidence and the representation of the Petitioner, relying upon the findings of the Enquiry Officer imposed the punishment of removal from service is disproportionate and excessive. A perusal of the entire records available in this case marked as Exhibits on the side of the management with the consent of the learned counsel for the Petitioner, clearly prove that the Petitioner as delinquent employee has been given sufficient opportunity to put forth his defence effectively. The order sheet maintained by the Enquiry Officer clearly shows that the entire charge sheet has been read over to him and translated to him by the Enquiry Officer at the inception of the enquiry, for which the Petitioner after understanding the facts in the charge sheet denied all the three articles of charges. It has been duly recorded by the Enquiry Officer in the Order Sheet No. 6 dated 1-8-97 which has both duly signed by the Enquiry Officer, Presenting Officer Mr. Krishnamurthy and also the charge sheeted agent, the Petitioner herein. This belies the contention of the Petitioner that the particulars in the charge memo has not been made known to him in Tamil, which is the language known to him. In the order sheet No. 8 dated 28-11-97, under Ex. M17-Xerox copy, the Enquiry Officer has clearly stated that he supplied 3 documents out of 8 documents for perusal by the Petitioner and the other documents were not admitted for the supply as those documents were confidential and privileged one and the Petitioner did not raise any objection at this point. It is seen from that Exhibits for the remarks made by Enquiry Officer in the daily order sheet, the charge sheeted agent, Petitioner herein, his defence assistant, Presenting Officer and the Enquiry Officer have subscribed their signatures. Further, the Petitioner has admitted in his written statement dated 25-6-95 before the Enquiry Officer marked as Ex. M1 that he had not paid the M.O. to the actual payees and he had not collected the signatures of the actual payees. The actual payees also admitted in their statements dated 27-6-95 and 21-6-95 that they have not received the M.O. amount and they have not put their signatures in the respective M.O. form and that the signatures found in the M.Os. were not of their own. So, under such circumstances, there was no necessity for the Enquiry Officer to call for the expert opinion of a handwriting expert in respect of the signatures found in the M.O. paid vouchers. From the available records it is seen that the Petitioner was given reasonable opportunity during the course of the enquiry and he availed the same with the assistance of his defence assistant and has cross examined the witnesses of the department and also had gone through the documents relied upon by the department. From this it is seen that the contention of the Petitioner contra to this have been made in the Claim Statement only as an after thought. A perusal of the entire enquiry proceedings clearly show that the enquiry was conducted by the Enquiry Officer properly

as per rules by giving fair and sufficient opportunity to the Petitioner, the charge sheeted agent to put forth his defence effectively. Only after analysis of the entire evidence placed before him, the Enquiry Officer had come to the conclusion that all the three charges levelled against the Petitioner have been proved. A reading of the Enquiry Officer's report clearly shows that he had properly analysed the entire evidence and had also given reasons for his conclusion. Further, in such departmental enquiries, the standard of proof required is preponderance of probability and not proof beyond doubt as required in criminal cases disputed in the Criminal Court as correctly contended by the learned counsel for the II Party. There are overwhelming evidence available in this case to come to the conclusion that the Petitioner has committed the alleged misconduct of misappropriation of the public money by forging the signatures of the payees and thereby the Petitioner while serving as EDDA, Sikkal has contravened the provisions of Rule 121 and 127(1) of the Postal Manual Volume 6 Part III and thereby failed to maintain absolute integrity and devotion to duty as required under Rule 17 of E.D. Agents (Conduct & Service) Rules, 1964. So it cannot be said that the findings of the Enquiry Officer is without any evidence and it is a perverse. As clearly stated by the Disciplinary Authority in his order Ex. M22 for imposing the penalty for the proved misconduct of the Petitioner, the retention of the Petitioner who is lacking honesty and devotion to duty while working in such responsible post of delivery agent will not only spoil the image of the department but also affect the prompt service of the department, which the rural people are enjoin upto their expectation. On the basis of this, the punishment awarded to the Petitioner by the ad-hoc Disciplinary Authority in the above said order for the proved misconduct by removing him from service with immediate effect cannot be considered as disproportionate or excessive. Hence, I find that the action of the management of Department of Posts, Nagappattinam Division, Nagapattinam, in removing Sri S. M. Veeraiyan from service from the post of EDDA is justified. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the I Party/Workman Sri S. M. Veeraiyan is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th June, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Exhibits marked :—

For the I Party/Workman :— Nil

For the II Party/Management :—

Ex. No.	Date	Description
M 1	26-06-95	Xerox copy of the written statement submitted by the Petitioner to Assistant Superintendent of Post Offices.
M 2	21-06-95	Xerox copy of the written statement submitted by Mr. Durai before Assistant Superintendent of Post Offices

M 3	03-05-95	Xerox copy of the Money Order No. 1770 dt. 3-5-95 Kunnur Bazaar for s. 1500/- payable to Sri P. Durali, Sikkal
M 4	26-06-95	Xerox copy of the written statement submitted by the Petitioner to Assistant Superintendent of Post Offices
M 5	21-06-95	Xerox copy of the written statement submitted by Sri S. N. Srinivasa-Batrachariyar to the Assistant Superintendent of Post Offices.
M 6	26-05-95	Xerox copy of the money order No. 2115 dt. 26-5-95 of Tirumayam SO for Rs. 200/-
M 7	26-06-95	Xerox copy of the written statement submitted by the Petitioner to Assistant Superintendent of Post Offices
M 8	27-06-95	Xerox copy of the written statement submitted by Mr. G. H. Jagaballa before Assistant Superintendent of Post Offices.
M 9	26-05-95	Xerox copy of the money order No. A 207 dt. 26-5-95 of for Rs. 1409/- payable to G. H. Jagaballa, Sikkal.
M 10	14-02-97	Xerox copy of the daily order sheet No. 1
M 11	24-02-97	Xerox copy of the daily order sheet No. 2
M 12	10-03-97	Xerox copy of the daily order sheet No. 3
M 13	31-03-97	Xerox copy of the daily order sheet No. 4
M 14	11-04-97	Xerox copy of the daily order sheet No. 5
M 15	01-08-97	Xerox copy of the daily order sheet No. 6
M 16	15-10-97	Xerox copy of the daily order sheet No. 7
M 17	28-11-97	Xerox copy of the daily order sheet No. 8
M 18	03-03-99	Xerox copy of the daily order sheet No. 17
M 19	01-08-97	Xerox copy of the deposition of the Petitioner Before the Assistant Superintendent of Post Offices
M 20	19-09-96	Xerox copy of the charge sheet issued by Assistant Superintendent of Post Offices to Petitioner
M 21	27-05-99	Xerox copy of the Enquiry Officer's report.
M 22	17-07-99	Xerox copy of the order of the Disciplinary Authority

नई दिल्ली, 25 जून, 2002

का. प्रो. 2430.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण वेस्टई के पंचाट (संदर्भ संख्या 291/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2002 को प्राप्त हुआ था।

[सं. एल. 40012/192/95 आई. प्रार. (सीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2002

S.O. 2430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 291/2001) of the Central Government Industrial Tribunal/Labour Court Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Post and their workman, which was received by the Central Government on 25-6-2002.

[No. L-40012/192/95-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Thursday, the 13th June, 2002

PRESENT:

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. 291/2001

(Tamil Nadu State Industrial Tribunal

I.D. No. 323/99)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri U. Sivakumar and the Management of Posts]

BETWEEN

Sri U. Sivakumar : I Party/Workman.

AND

1. The Assistant Superintendent of
Post Offices,
Nagapattinam
Sub Division. : II Party/Management.

2. Superintendent of
Nagapattinam
Sub Division. : II Party/
Management.

APPEARANCE :

For the Workman : Sri S. Ravendran,
AdvocateFor the Management : Sri D. Nandakumar
ACGSC

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned dispute for adjudication vide Order No. L-40012/192/95/IR (DU) dated 18-11-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 323/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 291/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 13-2-2001 with their respective parties and to prosecute this case further. Accordingly the learned counsel on either side along with their respective parties have appeared filed their respective claim and Counter Statement and the documents on either side and prosecuted this case further.

When the matter came up before me for final hearing on 28-5-2002, both the parties and the respective counsel on record remained absent as usual, subsequent to 6-3-2002, though the matter has been adjourned for many hearings till his date for the counsel on either side to advance their respective arguments. Hence, it was held that no argument on either side. Then orders have been reserved to decide the dispute on merits with the available documents on either side and other relevant materials.

Upon perusing the Claim Statement, Counter Statement, the other material papers on record, the documentary evidence let in on either side, and this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following:—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the action of the management of the Superintendent of Post Offices, Nagapattinam in terminating the services of Shri U. Sivakumar w.e.f. 2-4-94 is justified? If not, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri U. Sivakumar (hereinafter refers to as Petitioner) are briefly as follows:—

The Petitioner was appointed as Extra Departmental Packer EDDA and EDMC at Andanapettai, Sikkal and Nagapattinam Beach and Nagapattinam north in substituted capacity in the years 1991 and 1992. During the year 1991-92 he has completed 240 days of service in a year. The Petitioner was again appointed as substituted Extra Departmental Packer in Nagapattinam North Post Office from 4-1-93 in the place of Sri P. Ravindran, who left for Singapore by applying leave. The said Sri P. Ravindran, Extra Departmental Packer, Nagapattinam North has unauthorisedly absented himself from 1-5-93 and the Petitioner was appointed temporarily by the Sub Post Master, Nagapattinam North under instructions from the 1st Respondent from 1-5-93 and it lasted till his termination from service on 2-4-94. The Petitioner continuously officiated as Extra Departmental Packer, Nagapattinam North SO from 4-1-93 to 2-4-94 without any break. The total period for which he was officiated in Nagapattinam North SO continuously for one year two months and twenty-eight days. Therefore,

the Petitioner is deemed to be permanent in view of Section 25B of Industrial Disputes Act, 1947. The said Sri P. Ravindran applied for leave from 4-1-93 to 30-4-93 and thereafter unauthorisedly absented himself from service. If an E.D. official has availed leave for more than 180 days in a year under Rule 5 of E.D. agents (C & S) Rules, 1964 he ceases to be an E.D. employee and as such the Petitioner officiated in a clear vacancy continuously for more than one year. All of a sudden the first Respondent appointed a permanent incumbent to the post. No orders have been served on the Petitioner and his service has been terminated without any notice. The Petitioner has drawn the salary of Rs. 927 per month when he was disengaged. Now the post carries an allowance of Rs. 2,200. The management without assigning any reason and without any prior notice terminated the services of the Petitioner on 2-4-94 without an order of termination. The said act of the Respondent is a violation of principles of natural justice and Section 25F of the Industrial Disputes Act, 1947. Though the Petitioner made a representation against the orders of termination to the Respondents, they have failed to pass a reasoned final order. The termination of the Petitioner from service is illegal, arbitrary and ab initio void. It is also in violation of Articles 14 and 16 of the Constitution of India. So the Petitioner is entitled for continuation of his services as Extra Departmental Packer, Nagapattinam North in the Respondent Department. On failure of conciliation report submitted by the conciliation officer, though the Ministry declined to refer this matter earlier. On further representation given by the Petitioner for reconsideration of the same by the Govt., this reference has been made by the Govt. to this Tribunal for adjudicating the industrial dispute. Hence, under such circumstances, this Hon'ble Tribunal may be pleased to direct the management to reinstate the Petitioner in service with all attendant and consequential service and monetary benefits.

3. The averments in the Counter Statement filed by the II Party 1 and 2 in common are briefly as follows:—

The Petitioner had worked in a leave vacancy only during the period from 4-1-93 to 10-7-93. From 11-7-93, he was allowed provisionally on a stop gap arrangement till regular appointment was made on 2-4-94. He worked as a leave substitute in the place of Extra Departmental Packer Sri P. Ravindran, who applied for leave for the period from 4-1-93 to 10-7-93. The department took disciplinary action against the regular incumbent and the arranged outsider who was allowed provisionally to work as Extra Departmental Packer on a stop gap arrangement from 11-7-93 to 1-4-94. For both periods the Petitioner was allowed to work as Extra Department Packer in Nagapattinam North SO purely on a temporary arrangement and it will not confer any right for regular absorption. Hence, issue of notice for termination prior to his discharge from service on 2-4-94 does not arise. The Petitioner was permitted to work on stop gap arrangement on the condition that the arrangement was purely temporary and would be terminated at any time without assigning any reason and that the Petitioner could not claim permanent appointment to that post. Since the Petitioner was never appointed as a regular E.D. Agent the provision of P & T E.D. Agent (Conduct & Service) Rules,

1964 regarding issue of termination notice or payment of one month's salary in lieu of notice does not apply in this case. The discharge of the Petitioner on 2-4-94 is either illegal or arbitrary. The Petitioner was never appointed as Extra Departmental Packer but he served merely as a leave substitute in leave vacancies for regular Extra Departmental Packer and his discharge from the post was as per the conditions of sanction of leave. Hence, the Petitioner is not at all entitled for reinstatement in the Respondent department. Hence, this Tribunal may be pleased to dismiss the claim of the Petitioner.

4. When the matter was taken up for enquiry, no one has been examined on either side as a witness. Documents filed on either side have been marked as Ex. W1 to W6 and M1 to M15 respectively. Though various opportunities were given to counsel on either side to advance their respective arguments, both of them have not availed that opportunity, till the matter has been reserved for orders to decide the issue on merits.

5. The point for my consideration is—

"Whether the action of the management of the Superintendent of Post Offices, Nagapattinam in terminating the services of Shri U. Sivakumar w.e.f. 2-4-94 is justified? If not, to what relief the workman is entitled?"

POINT:—

It is admitted that the Petitioner had worked in a leave vacancy of a regular incumbent in a post of Extra Departmental Packer in Nagapattinam North SO, when he went on leave. Ex. M1 is the xerox copy of the leave application given by the regular incumbent Sri P. Ravindran, Extra Departmental Packer, Nagapattinam North SO. Ex. M2 to M7 are the xerox copies of the subsequent leave applications sent to the Respondent Management from 10-1-93 to 10-7-93. The Petitioner also has given a statement dated 27-5-93 to the Assistant Superintendent of Post Offices, Nagapattinam Sub Division, the xerox copy of the same is Ex. M8. In that statement, he has stated that he is working temporarily as Extra Departmental Packer in the place of Sri P. Ravindran, who had gone on leave and he has signed his first leave application as his nominee. He has also admitted in that statement that he has signed the leave applications of Ravindran as his substitute. It is seen from Ex. M1 to M8 that the Petitioner had worked in the place of Sri P. Ravindran, the regular incumbent of the post of Extra Departmental Packer, when he went on leave. Ex. M9 is the xerox copy of the order dated 28-3-94 passed by the Assistant Superintendent of Post Offices, Nagapattinam Sub Division. By that order, one Mr. Arulnathan was offered provisional appointment for the post of Extra Departmental Packer, Nagapattinam North SO. Ex. M13 is the xerox copy of the letter dated 6-10-94 sent by the Assistant Superintendent of Post Offices, Nagapattinam Sub Division to Assistant Superintendent of Post Offices, Mayiladuthurai North Sub Division, directing him to prepare a charge sheet against the regular incumbent Sri P. Ravindran on the ground that he went for Singapore in January, 1993. Ex. M14 is the enquiry report of the Enquiry Officer for conducting the enquiry for the charges levelled against the regular incumbent of the post Sri P. Ravindran. All these documents have

been marked as exhibits for the Respondent with the consent of the counsel for the Petitioner. Ex. M15 is the xerox copy of the order passed by the Disciplinary Authority dated 6-7-98 for removing the regular incumbent Sri P. Ravindran Extra Departmental Packer from service with immediate effect. Ex. W1 series is the original absentees statement for the months June, 1993 to April, 1994 prepared by Sub Post Master, Nagapattinam North Post Office. Ex. W2 is the memo for handing over charge of Extra Departmental Packer, Nagapattinam North by the Petitioner to Sri Arulnathan on 28-3-94. Ex. W3 is the copy of the representation dated 9-5-94 sent by the Petitioner to the Superintendent of Post Offices, Nagapattinam Division requesting alternate employment after his retrenchment on 2-4-94. Ex. W4 is the copy of the 2A petition filed by the Petitioner before the Labour Enforcement Officer, Tiruchirappalli requesting him to conciliate the matter. Ex. W5 is the copy of the failure of conciliation report sent by the Labour Enforcement Officer, Central, Trichy to the Ministry. Ex. W6 is the xerox copy of the Chief Post Master General communication to the various offices in the postal department in respect of appointment to ED Pos's by considering the Casual Labourers and ED Outsiders.

6. All these documents filed on either side establish the fact that the Petitioner was permitted to work on stop gap arrangement as a leave substitute in a place of Extra Departmental Packer Sri P. Ravindran, who went on leave and subsequently, the Petitioner was disengaged after a regular incumbent to that post has been selected and appointed. From this, it is seen that the Petitioner was appointed purely on a temporary basis and he was never appointed as a regular Extra Departmental Packer in Nagapattinam North SO. So, it will not confer any right for regular absorption to that post, as it is correctly contended by the Respondent in their Counter Statement. That was why on appointing a regular incumbent to the permanent post wherein vacancy had arisen due to the previous incumbent Sri Ravindran has left service, for having left to Singapore the Petitioner was engaged in that post as a stop gap arrangement was discharged from that post on 2-4-94 without assigning any reason. Under such circumstances, the Petitioner is not entitled for any notice or notice pay as required under section 25F of Industrial Disputes Act, 1947. So the contention of the Petitioner that the Respondent had violated the principles of natural justice and section 25F of the Industrial Disputes Act, 1947 is incorrect and unacceptable. Even for inclusion of the name of the Petitioner in the dovetailed list, the Petitioner cannot be considered as an eligible Casual Labourer in the ED Post, as per the circular of the department in Ex. W6. On the basis of the judgment given by the Central Administrative Tribunal dt. 17-8-93, the Postal Department under Circular Ex. W6 has stated that the substitute ED Outsiders sponsored by the principal ED agents to leave vacancies, there is no employee and employer relationship between them and the department and they have entered the department through the backdoor inasmuch as they were not engaged after due process of recruitment by the competent authority and as such, they cannot claim right of regularisation and that the provisional appointees to E.D. posts who are directly employed by the department are entitled to claim alter-

native employment, if they had put in not less than three years of service, in accordance with Director General of Posts letter dated 18-5-79. As per this circular, the Petitioner cannot claim it as a right for regularisation of service or reinstatement in service. Further, as per this circular the Petitioner who is not a candidate as an ED outsider, whose services have been engaged before 11-2-88 only to become eligible for inclusion in the dovetailed list. As per this circular, the ED Outsider who have engaged after 11-2-88 are not eligible for regularisation, even if they have completed 240 days of service in any two years after their engagement. Under such circumstances, it can be held that the action of the management of the Superintendent of Post Offices, Nagapattinam Division in disengaging Sri U. Sivakumar w.e.f. 2-4-94 is justified. Hence, he is not entitled for any relief. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the I Party/Workman Sri U. Sivakumar is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th June, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Exhibits marked :—

For the I Party/Workman :—

Ex. Date Description
No.

W1 Series	Original absentee statements for the months of June, 1993 to March, 1994.
W2 28-03-94	Xerox copy of the charge report and receipt for Cash and stamps on transfer of charge in respect of the Petitioner.
W3 09-05-94	Typed copy of the representation of Petition to the Superintendent of Post Offices, Nagapattinam.
W4 14-06-99	Xerox copy of the 2A petition filed by the Petitioner before the conciliating authority.
W5 09-10-95	Xerox copy of the failure of conciliation report
W6 23-12-93	Xerox copy of the letter issued by Chief Post Master General, Tamil Nadu Circle with regard to appointment to ED posts--consideration of Casual Labourers and ED Outsiders.

For the II Party/Management :—

Ex. Date Description
No.

M1 Nil	Xerox copy of the ED Leave application of Sri P. Raveendran, ED packer, Nagapattinam North SO.
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M2 Nil	Xerox copy of the ED Leave application of Sri P. Raveendran, ED packer, Nagapattinam North SO.
M3 Nil	Xerox copy of the ED Leave application of Sri P. Raveendran, ED packer, Nagapattinam North SO.
M4 Nil	Xerox copy of the ED Leave application of Sri P. Raveendran, ED packer, Nagapattinam North SO.
M5 06-04-93	Xerox copy of the ED Leave application of Sri P. Raveendran, ED packer, Nagapattinam North SO.
M6 Nil	Xerox copy of the ED Leave application of Sri P. Raveendran, ED packer, Nagapattinam North SO.
M7 Nil	Xerox copy of the ED Leave application of Sri P. Raveendran, packer Nagapattinam North SO.
M8 27-05-93	Xerox copy of the written statement submitted by Petitioner to Assistant Superintendent of Post Offices.
M9 28-03-94	Xerox copy of the provisional Offer of appointment issued to Sri Arulnathan by the Assistant Superintendent of Post Offices.
M10 10-06-93	Xerox copy of the VR of Nagapattinam North SO by Assistant Superintendent of Post Offices.
M11 Nil	Xerox copy of the Inspection Report on Nagapattinam North SO.
M12 26-07-94	Xerox copy of the Inspection Report on Nagapattinam North SO.
M13 17-08-94	Xerox copy of letter of Assistant Superintendent
06-10-94	Of Post Offices Nagapattinam Sub Division to Assistant Superintendent of Post Offices, Mayiladuthurai North Sub Division.
M14 14-03-98	Xerox copy of the enquiry report.
M15 06-07-98	Xerox copy of the order of Disciplinary Authority.

नई दिल्ली, 25 जून, 2002

AWARD

का.आ. 2431.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्कैलॉजिकल सर्वे ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 202/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 25-5-2002 की प्राप्त हुआ था।

[सं. एन-42012/195/98-आई आर (डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 25th June, 2002

S.O. 2431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 202/2001) of the Central Government Industrial Tribunal/Labour Court Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Archaeological Survey of India and their workman, which was received by the Central Government on 25-6-2002.

[No. L-42012/195/98-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour,
Court, Bhubaneswar.

Tr. Industrial Dispute Case No. 202/2001
Date of conclusion of hearing—22nd May, 2002
Date of Passing Award—13th June, 2002

BETWEEN :

The Management of the Deputy
Horticulturist, Archaeological Survey
of India, Horticulture Division No. 4,
Lewis Road, Near Ravi Talkies,
Bhubaneswar, Distt. Khurda.
Management.

Ist Party---
Management

AND

Their Workmen, Shri Sridhar Das,
At. Bodhakhandi Jagiri, P.O. Sisilo,
P.O. Balipatna, Distt Khurda-752 115.

2nd Party---
Workman

APPEARANCES :

Shri Sunakar Pradhan,
Foreman (H)
None,

For the 1st Party-
Management.
For the 2nd Party-
Workman.

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-42012/195/IR (DU), dated 24/28-12-1998 :

"Whether the action of the Management of Archaeological Survey of India in refusing to engage the disputant Shri Sridhar Das from the service is legal and justified? If not, to what relief the workman is entitled?"

2. The 2nd Party has filed the Claim Statement. His case is that, he was working as NMR Gardener with effect from 10-12-1982 till 20-2-1996. He was being paid a sum of Rs 1,455 per month. With him other workmen were also working under the 1st Party-Management. Some of the workmen had filed a case before the Central Administrative Tribunal, Cuttack Bench, for their regularization. When the matter was pending the 1st Party-Management suddenly refused the employment with effect from 21-2-1996 without compliance of Section 25F (a) (b), 25-G and 25-H of the Industrial Disputes Act. The policy "last come first go" was not followed by the 1st Party-Management. It was further pleaded that, after refusal of employment, the 1st Party-Management has given employment to twenty numbers of junior counterpart employees. Further case of the 2nd Party is that the gradation list dated 31-10-1997 prepared by the 1st Party-Management was defective and bad in law, though, during discussion, the 1st Party-Management had admitted his own mistake but did not take any step for correction of the list. So, the 2nd Party raised a dispute, reconciliation failed and the present reference has been made. The 2nd Party has prayed to declare his removal from service by the 1st Party-Management is illegal and unjustified. He has further prayed for reinstatement in service with full back wages and all other service benefits like regular employment with effect from 21-2-1996.

3. The 1st Party-Management has filed their Written Statement. Their case runs thus :—

The first stand taken by the 1st Party-Management is that Horticulture Branch of Archaeological Survey of India is not coming under the purview of Industrial Disputes Act and the 2nd Party is not a workman. Further case of the 1st Party-Management is that the 2nd Party was a seasonal and casual worker. As per the availability of the work at different gardens, sites of Bhubaneswar, he was engaged on daily rated basis. The 1st Party-Management has denied that, the 2nd Party has worked on payment of Rs. 1,455 per month. Further case of the 1st Party-Management is that, the 2nd Party was engaged on daily rated basis as casual worker on the basis of availability of work. So no notice is required for refusal of engagement, when there is no work available. The claim of the 2nd Party to have

worked, for 240 days continuously in a calendar year has also been denied by the 1st Party.

4. On the above pleadings of the parties the following issues have been settled.

1. Whether the action of the Management of Archaeological Survey of India in refusing to engage the disputant Shri Sridhar Das from the service is legal and justified?
2. If not, to what relief the workman is entitled?
3. Whether the Organization of the 1st Party-Management is coming under the definition of Industry?
4. Whether the disputant is a workman under him?

5. No oral evidence has been adduced on behalf of both the Parties. The 1st Party-Management has exhibited eight documents, which has been marked as Ext.-A to Ext.-H. It may be stated here that, the 2nd Party remained absent after issues are settled. In spite of opportunity given to him the 2nd Party has not adduced any evidence nor he has taken part in the proceeding and he has been set ex parte.

FINDINGS

Issue Nos. III & IV

6. I have taken these two Issues first for convenient sake. During course of the argument made on behalf of the 1st Party-Management, those two issues have not been pressed. Hence, no findings are necessary in respect of those two issues.

Issue No. 1

7. After filing of the Claim Statement, the aggrieved workman has remained absent. He has not come to the witness box to give evidence in support of his case. So practically there is no material for this Tribunal to record a finding that the 2nd Party had worked for 240 days in a calendar year and that he was being paid a sum of Rs. 1,455 per month. On the other hand, the documents exhibited on behalf of the 1st Party-Management (Ext.-D) reveals the number of days to have worked by the 2nd Party in a calendar year. The content of the Ext.-D stands unchallenged. The case of the 1st Party-Management is that the engagement of the 2nd Party was required on the availability of the work in different gardens and in a particular period also has not been shaken. When the engagement of the 2nd Party was casual in nature depending upon the availability of the work he has got no right for notice or compensation before

dis-engagement as required under Section 25-F(a) of the Industrial Disputes Act. The grievance of the 2nd Party as revealed from the Claim Statement is that the gradation list, which was prepared by the 1st Party-Management as per the direction of the Central Administrative Tribunal was defective and was prepared without application of mind. If that was the case, this Tribunal has got no power to declare the gradation list as invalid, as it is not the subject matter of the present reference. So in my opinion, the engagement of the 2nd Party being casual in nature depending upon the availability of the work till dis-engagement does not come under the definition of retrenchment. So, in that case he would have no right to claim the post. In other words the action of the 1st Party-Management in refusing employment to the disputant namely Shri Sridhar Das is legal and justified. This issue is answered accordingly.

Issue No. II

8. In view of my findings given in respect of Issue No. I, the 2nd Party-Workman is not entitled for any relief.

9. Reference is answered accordingly

Dictated and Corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 25 जून, 2002

का.आ. 2432.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्कैलॉजिकल सर्वे ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 200/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2002 को प्राप्त हुआ था।

[सं. एल-42012/201/98-आई आर (जीयू)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 25th June, 2002

S.O. 2432.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 200/2001) of the Central Government Industrial Tribunal/Labour Court Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of

Archaeological Survey of India and their workman, which was received by the Central Government on 25-6-2002.

[No. L-42012/201/98-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR**

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T -cum-Labour Court,
Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 200/2001

Date of conclusion of hearing—22nd May, 2002

Date of Passing Award—14th June, 2002

BETWEEN :

The Management of the Deputy
Horticulturist, Archaeological Survey of
India, Horticulture Division No. 4,
Lewis Road, Near Ravi Talkies,
Bhubaneswar, Dist. Khurda.

.. 1st Party-Management.

AND

Their Workman, Shri Jagannath Bhoi,
S/o Netrananda Bhoi, At. Bodakhandi,
P.O. Singilo, Via Balakati,
Dist. Khurda-752115

.. 2nd Party-Workman.

APPEARANCES :

Shri Sunakar Pradhan, Foreman (H) .. For the
1st Party-
Management.

None. .. For the 2nd Party-
Workman.

AWARD

The Government of India in the Ministry of Labour in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-42012/201/98/IR(DU), dated 24/28-12-1998 :—

“Whether the action of the Management of Archaeological Survey of India in refusing

to engage Shri Jagannath Bhoi is legal and justified? If not, what relief the workman is entitled to?”

2. The 2nd Party has filed the Claim Statement. His case is that, he was working as NMR Gardener with effect from 1992 till 20-2-1996. He was being paid a sum of Rs. 1,455 per month. With him other workmen were also working under the 1st Party-Management. Some of the workmen had filed a case before the Central Administrative Tribunal, Cuttack Bench, for their regularization. When the matter was pending the 1st Party-Management suddenly refused the employment with effect from 21-2-1996 without compliance of Section 25-F (a) (b), 25-G and 25-H of the Industrial Dispute Act. The policy “last come first go” was not followed by the 1st Party-Management. It was further pleaded that, after refusal of employment, the 1st Party-Management has given employment to twenty numbers of junior counterpart employees. Further case of the 2nd Party is that the gradation list dated 31-10-1997 prepared by the 1st Party-Management was defective and bad in law; though, during discussion, the 1st Party-Management had admitted his own mistake but did not take any step for correction of the list. So, the 2nd Party raised a dispute, reconciliation failed and the present reference has been made. The 2nd Party has prayed to declare his removal from service by the 1st Party-Management is illegal and unjustified. He has further prayed for reinstatement in service with full back wages and all other service benefits like regular employment with effect from 21-2-1996.

3. The 1st Party-Management has filed their Written Statement. Their case runs thus :—

The first stand taken by the 1st Party-Management is that Horticulture Branch of Archeological Survey of India is not coming under the purview of Industrial Disputes Act and the 2nd Party is not a workman. Further case of the 1st Party-Management is that the 2nd Party was a seasonal and casual worker. As per the availability of the work at different gardens, sites of Bhubaneswar, he was engaged on daily rated basis. The 1st Party-Management has denied that, the 2nd Party has worked on payment of Rs. 1,455 per month. Further case of the 1st Party-Management is that, the 2nd Party was engaged on daily rated basis as casual worker on the basis of availability of work. So no notice is required for refusal of engagement, when there is no work available. The claim of the 2nd Party to have worked, for 240 days continuously in a calendar year has also been denied by the 1st Party.

4. On the above pleadings of the parties the following issues have been settled :

1. Whether the action of the Management of Archaeological Survey of India in refusing to engage the disputant Shri Jagannath Bhoi from the service is legal and justified?
2. If not, to what relief the workman is entitled?
3. Whether the Organization of the 1st Party-Management is coming under the definition of Industry?
4. Whether the disputant is a workman under him?

5. No oral evidence has been adduced on behalf of both the Parties. The 1st Party-Management has exhibited six documents, which has been marked as Ex.-A to Ext.-F. It may be stated here that, the 2nd Party remained absent after issues are settled. In spite of opportunity given to him the 2nd Party has not adduced any evidence nor he has taken part in the proceedings and he has been set ex parte.

FINDINGS

ISSUE NOS. III & IV

6. I have taken these two Issues first for convenient sake. During course of the argument made on behalf of the 1st Party-Management, those two issues have not been pressed. Hence, no findings are necessary in respect of those two issues.

ISSUE NO. I

7. After filing of the Claim Statement, the aggrieved workman has remained absent. He has not come to the witness box to give evidence in support of his case. So practically there is no material for this Tribunal to record a finding that the 2nd Party had worked for 240 days in a calendar year and that he was being paid a sum of Rs. 1,455 per month. On the other hand, the documents exhibited on behalf of the 1st Party-Management (Ext.-D) reveals the number of days to have worked by the 2nd Party in a calendar year. The content of the Ext.-D stands un-challenged. The case of the 1st Party-Management is that, the engagement of the 2nd Party was required on the availability of the

work in different gardens and in a particular period also has not been shaken. When the engagement of the 2nd Party was casual in nature depending upon the availability of the work he has got no right for notice or compensation before dis-engagement as required under section 25-F (a) of the Industrial Disputes Act. The grievance of the 2nd Party as revealed from the Claim Statement is that the gradation list, which was prepared by the 1st Party-Management as per the direction of the Central Administrative Tribunal was defective and was prepared without application of mind. If that was the case, this Tribunal has got no power to declare the gradation list as invalid, as it is not the subject matter of the present reference. So in my opinion, the engagement of the 2nd Party being casual in nature depending upon the availability of the work till dis-engagement does not come under the definition of retrenchment. So, in that case he would have no right to claim the post. In other words he action of the 1st Party-Management in refusing employment to the disputant namely Shri Jagannath Bhoi is legal and justified. This issue is answered accordingly.

ISSUE NO. II

8. In view of my findings given in respect of Issue No. I, the 2nd Party-Workman is not entitled for any relief.

9. Reference is answered accordingly.

Dictated and corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 26 जून, 2002

का.आ. 2433:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्टल प्रिंटिंग प्रेस के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 298/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-2002 को प्राप्त हुआ था।

[सं. एल-40012/167/99-आई आर (डीयू)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 26th June, 2002

S.O. 2433.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 298/2001) of the Central Government Industrial Tribunal/Labour Court Bhubaneswar as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Postal Printing Press and their workman, which was received by the Central Government on 26-6-2002.

[No. L-40012/167/99-IR(DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. Industrial Dispute Case No. 298/2001

Date of conclusion of hearing—24th May, 2002

Date of Passing Award—19th June, 2002

BETWEEN :

The Management of the Manager,
Postal Printing Press, Gadagopinathpur,
Rasulgarh, Bhubaneswar-751 010. ... 1st Party-
Management

AND

Their Workmen, Shri Dibakar Das,
At P.O. Gada Sahi, Via Kanas,
Distt. Puri-752 001. ... 2nd Party-
Workman.

APPEARANCES :

Shri Jogeswar Nahak, Manager. ... For the 1st
Party-Management.

Shri Dibakar Das. ... For himself-
2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-40012/167/99-IR(DU), dated 21-10-1999 :

“Whether the action of the Management of Postal Printing Press, Bhubaneswar, in not reinstating the disputant, Shri Dibakar Das in service is legal and justified? If not, what relief he is entitled to?”

2. The case of the 2nd Party-Workman as pleaded in his Claim Statement runs thus :

2220 GI/2002—7

Being selected in the process of selection made by the 1st Party-Management, he was appointed as casual Security Guard under Order, dated 30-6-1992 and in pursuance to the said appointment order, he joined on 1-7-1992. He worked till 14-1-1993. During his service period he performed his duties most satisfactorily and diligently and there has been no stigma or any kind of adverse remark against his service career. The 1st Party-Management without asking for any reason and without following the mandatory provisions of law terminated his services from 14-1-1993. After termination he was again reengaged from February, 1993 to June, 1993. Though he had worked for more than 240 days in a calendar year his services was terminated without following the provisions of the Industrial Dispute Act. Further case of the 2nd Party is that as per the notification of the Government of India, casual Labourers who are engaged on full time basis should be given appointment in filling up the Group D post. There is ban for recruitment from the open market in Group-D post, but the 1st Party-Management did not follow the said circular and selected candidates from the open market ignoring the case of the 2nd Party. According to the 2nd Party his termination is illegal. He raised the dispute, reconciliation failed thereafter the present reference has been made. The 2nd Party has prayed for reinstatement in Group-D post with full back wages.

3. The 1st Party-Management has filed their Written Statement. They have pleaded in their Written Statement that, the 2nd Party was working as casual Security Guard to watch the vacant quarters of Postal Colony with effect from 1-7-1992 as the quarters were not allotted to the employees. When the quarters were allotted, the 2nd Party was disengaged with effect from 14-1-1993. The 2nd Party has filed an application bearing O.A. No. 592/99 before the Central Administrative Tribunal, Cuttack Bench. Before filing of O.A. No. 592/99, the 2nd Party had also filed O.A. No. 620/95, in which the 2nd Party made prayer for getting appointment to the Post, advertised. The Central Administrative Tribunal had observed that the 2nd Party should be called to the interview, but he could not be selected. So, according to the 1st Party-Management the present reference is not maintainable. The specific case of the 1st Party-Management is that, the 2nd Party had not worked for 240 days between 1-7-1992 to 14-1-1993 and that, his engagement being casual in nature, has got no merit to claim the post.

4. On the above pleadings of the parties the following issues have been settled.

1. Whether the Workman has worked for 240 days?
2. Whether the action of the Management not re-instating the Workman in service is justified?
3. What relief the Workman is entitled to?

5. The 2nd Party has filed affidavit and has exhibited five documents. Similarly, the 1st Party-Management has examined one witness and has exhibited three documents.

FINDINGS

Issue No. I

6. The 2nd Party in his affidavit has stated that he joined as Security Guard on 1-7-1992. In the Claim Statement he has also stated that, he worked from 1-7-1992 to 14-1-1993. Subsequently, he has further stated that, he has worked from February, 1993 to June, 1993. The 1st Party-Management has submitted that, the 2nd Party had worked up to the month of January, 1993 but not up to June, 1993. Ext.-1 submitted on behalf of the 2nd Party is the appointment order asking him to join on 1-7-1992. Ext.-2 is the duty allotment letter. Ext.-3 is the letter of disengaging the 2nd Party from 14-1-1993. Ext.-4 is the list showing the list of the candidates selected for the post of Labourer on the basis of the recommendation of the selection Committee held from 8-10-1999 to 13-10-1999. Ext.-5 is the Advertisement for the Group-D post. None of the exhibits have disclosed that the 2nd Party had worked upto June, 1993. On the other hand in the Original Application bearing No. 592/99 filed by the 2nd Party and some others it was averred by the 2nd Party that, he was in casual engagement as Security Guard on daily wage basis from 1-7-1992 to 14-1-1993. They had prayed to appoint them in the Group-D post for which Advertisement was made. The Central Administrative Tribunal directed the 1st Party-Management to give the 2nd Party a chance to appear in the selection along with others. Accordingly, the 2nd Party appeared before the Selection Committee but was not found suitable. In the said Original Application the case of the 2nd Party was that, he had worked from February, 1993 to June, 1993 as per the verbal order was not accepted. The certified copy of the judgement passed in O.A. No. 592/99 has been exhibited in this case as Ext.-A. So, when there was no order directing the 2nd Party to work from February, 1993 to June, 1993 and once a Court of law has observed that there is no proof that the 2nd Party had worked from February, 1993 to June, 1993, this Tribunal is of the opinion that, the case of the 2nd Party that he had worked from February, 1993 to June, 1993 on the basis of the oral order of the 1st Party-Management can not be accepted. So, in that case, it is found that, the 2nd Party had not worked for 240 days in between 1-7-1992 to 14-1-1993. In the cross examination, the 2nd Party at Para-21, he has admitted that, he has not filed any documents in support of his case that he had worked till 30-6-1993. So, without any materials the claim of the 2nd Party that he had worked there from February, 1993 to June, 1993 can not be accepted and if this period is excluded admittedly the 2nd Party had not worked for 240 days in a calendar year. So, this issue is answered accordingly.

Issue No. II

7. The claim of the 2nd Party is that the termination of his service is illegal and he is entitled for reinstatement. Admittedly, the 2nd Party was not appointed as per the recruitment rules. He was engaged to guard the vacant quarters of the 1st Party-Management, as those quarters were not allotted to the staff. Once the allotment was made the services of the 2nd Party was not necessary. So, he was disengaged. This will suggest that, the engagement

of the 2nd Party was casual in nature. The Group-D Post for which Advertisement was made had prescribed some rules and the selection was to be made by a selection Committee. As the 2nd Party had worked under the 1st Party-Management as casual Security Guard the 1st Party-Management had given opportunity to him to face the interview as per the direction of the Central Administrative Tribunal, Cuttack Bench. The 2nd Party had appeared before the interview board. But he was not found suitable. The findings of the selection Committee can not be challenged before any Court of Law. The engagement of the 2nd Party being casual in nature he can not claim for the Group-D post when he was found unsuitable by the selection Committee. The engagement of the 2nd Party was for a specific purpose i.e. to watch the vacant quarters of the 1st Party-Management. So, the disengagement of the 2nd Party, when the work was over, would not amount to termination and so, there is no necessity to follow the provisions of the Industrial Dispute Act. The disengagement of the 2nd Party by the 1st Party-Management is not illegal. Moreover the 2nd Party having been found unsuitable by the selection Committee is not entitled for reinstatement. This Issue is answered accordingly.

Issue No. III

8. In view of my findings given in respect of Issue No. I & II the 2nd Party-Workman is not entitled for any relief.

9. Reference is answered accordingly.

Dictated and Corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 26 जून, 2002

का.आ. 2434.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन कार्पोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 289/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-2002 को प्राप्त हुआ था।

[सं. एन-42012/88/99-आई.आर. (डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th June, 2002

S.O. 2434.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 289/2001) of the Central Government Industrial Tribunal/Labour Court Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dredging Corporation of India and their workman, which was received by the Central Government on 26-6-2002.

[No. L-42012/88/99-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. Industrial Dispute Case No. 289/2001

Date of conclusion of hearing—20th May 2002

Date of Passing Award—17th June 2002

BETWEEN

The Management of the Managing
Director, Dredging Corporation of India
Limited, Paradip,
Dist. Jagatsinghpur. . . 1st Party-Management

AND

Their Workmen, Shri Laxmindhar Swain,
Qr. No. BHC-32,
Nr. Mangalapetha Lane,
Paradip, Dist.
Jagatsinghpur-754 142. . . 2nd Party-Work-
man.

APPEARANCES:

Shri P. Siva Sankara Rao
Deputy Manager (P & A) . . . For the 1st Party-
Management.

Shri Laxmi Dhar Swain. . . For Himself-
Workman.

AWARD

The Government of India in the Ministry of Labour in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-42012/88/99-IR (DU). dated 11-8-1999:

“Whether the action of the Management of Dredging Corporation of India Ltd., Paradip Jagatsinghpur, in dismissing Sh. Laxmidhar Swain, is legal and justified? If not, to what relief the workman is entitled?”

2. The case of the 2nd Party-Workman may be stated in brief. He was engaged from 1-9-1982 as a Clerk-cum-Typist and continued till 28-3-1984 as such. During his engagement he was asked to apply for the post as General Assistant and accordingly he applied for the post on 3-2-1984. His further case is that he was sent to M.O.D. Dredge—3 as S.S.F.O. on leave vacancy up to 15-8-1985. The said project was closed where he was working but no wages was paid to him. He was disengaged on 1-11-1996. He was again given ad hoc appointment in the post of Supervisor, Pipe Line till 31-3-1997. He worked but no wages was paid to him. So he left the job and raised a dispute. As reconciliation failed, the present reference has been made. The 2nd Party in his

lengthy Claim Statement after describing his case has prayed the Tribunal to declare the dismissed order passed by the 1st Party-Management against him is illegal and unjustified. Further prayer has been made for his reinstatement with full back wages.

3. The 1st Party-Management has filed their Written Statement. Their case is that, the 2nd Party was appointed in a Project Office at Paradip as a Clerk-cum-Typist purely on casual and daily wage basis initially for a period of 89 days with effect from 1-9-1982. As per the Para-2 (a) of the terms and conditions of appointment to the said post, the period of appointment of 89 days was also extended. While the 2nd Party was in engagement his performance was found to be unsatisfactory and as he was in-disciplined he was disengaged with effect from 11-2-1983 on completion of second spell of 89 days. Subsequently on his representation, on humanitarian sympathetic ground he was re-engaged on 2-3-1983 and he assured to show better performance and good conduct. But after the re-engagement with effect from 2-3-1983 no improvement was found in the performance of the 2nd Party. He remained absent on 5-3-1984 and attended the office on 6-3-1984. Instead of applying for leave for his absence he deliberately signed the attendance register for 5-3-1984 and thereby tampering the official records. Subsequently, he also destroyed the attendance register pertaining to the casual employees of the Project Office. He also destroyed his personal file, which was in kept in the Project Office. The 2nd Party met the Project Manager and confessed about his absence on 5-3-1984 and late attendance on 6-3-1984. Subsequently, the 2nd Party has also admitted to have, destroyed the attendance register and the personal file. So, the 1st Party-Management disengaged him from 28-3-1984. He was paid an amount of 690 equivalent to one months wage. Thereafter in the year 1997 the 2nd Party has submitted a letter to the Labour Enforcement Officer, Paradip, making a false allegation that no retrenchment compensation was paid to him for his earlier service and he was attending the duties from 1-11-1996, he was not paid salary for the period. On receipt of the complaint, the Labour Enforcement Officer conducted an enquiry on 3-2-1997 and found that the claim was false, fabricated and without any merits. The Labour Enforcement Officer observed that the claim of the 2nd Party for retrenchment compensation did not arise when the services were terminated on disciplinary grounds. It was further observed that, it has been no proof that the 2nd Party had worked after his disengagement. Subsequently, the 2nd Party has also filed complaint before the District Labour Officer, Jagatsinghpur, who after perusing the reply of the Management did not make any enquiry as there was no merit in the complaint of the 2nd Party. The 1st Party-Management has prayed that the claim of the 2nd Party is illegal and the 1st Party-Management has prayed for answering the reference in their favour.

4. On the above pleadings of the parties the following issues have been settled :

1. Whether the reference is maintainable being a stale one ?
2. Whether the action of the Management in dismissing Shri Laxmidhar Swain is legal and justified ?

3. To what relief the workman is entitled ?

5. On behalf of the 2nd Party, the workman has examined himself as Workman Witness No. 1 and has exhibited nine documents in support of his case. The 1st Party-Management has also examined one witness.

FINDINGS

ISSUE NO. I

6. It is submitted on behalf of the 1st Party-Management that, the reference is not maintainable being a stale one. According to the 1st Party-Management when the 2nd Party was disengaged in the year 1984 and reference has been made in the year 1999 that is after lapse of 15 years, the present reference is not maintainable. On the other hand the submission that has been made on behalf of the 2nd Party is that he had worked till 31-3-1997 and as no payment was made to him he left the job and raised the dispute. Under this background now it is to be seen whether the 2nd Party had worked up to 31-3-1997 or he was disengaged in the year 1984. Ex. 2 filed on behalf of the 2nd Party is the offer of appointment wherein the appointment was offered to the 2nd Party for 89 days from 6-9-1982. No other documents have been filed on behalf of the 2nd Party to show that he had worked till 31-3-1997. The witness examined on behalf of the 1st Party-Management has deposed that, the 2nd Party was engaged as Clerk-cum-Typist for a temporary period on casual basis from 1-9-1982 and he continued till 10-2-1983 and thereafter he was disengaged on 11-2-1983. Further evidence is that as per the request of the 2nd Party on sympathetic ground he was again re-engaged from 2-3-1983 and continued till 27-3-1984. As the 2nd Party was in-disciplined and tampered with the official records he was disengaged w.e.f. 28-3-1984. The 1st Party-Management also has not produced the documents on the ground that the 2nd Party has destroyed all the documents and his personnel file during his engagement. Annexure-5 produced on behalf of the 1st Party-Management support their case. This is the copy of the observation submitted by the Labour Enforcement Officer, who has observed that the claimant had made a grievance after 15 years and there have been no documents in possession of the 2nd Party to establish that he had worked till 31-3-1997. On the face of the above evidence and materials it can not be said emphatically that, the 2nd Party had worked till 31-3-1997. When the 2nd Party has claimed to have, worked till 31-3-1997 the ends lines on him to establish by producing either oral or documentary evidence. His oral evidence also does not clearly speaks under what circumstances he had worked till 31-3-1997. He has not produced any documents for his appointment as Supervisor or in any other capacity after his disengagement in the year 1984. From the materials it would appear that, the 2nd Party was disengaged in the year 1984. This fact has received support from the report of the Labour Enforcement Officer, Annexure-5. It is submitted on behalf of the 1st Party-Management because the complaint was made in the year 1997, so the Labour Enforcement Officer has observed that, after 13 years the 2nd Party had made a complaint. So, this Tribunal can safely come to the conclusion that the second

party was disengaged in the year 1984. Admittedly the reference has been made in the year 1999. No reasonable explanation has been given on behalf of the 2nd Party for the delay for raising the dispute. So, I agree with the submission made on behalf of the 1st Party-Management that the reference is not maintainable being a stale one. Hence, this Issue is answered accordingly.

ISSUE NO. II

7. The claim of the 2nd Party is that the dismissal order passed by the 1st Party-Management is illegal and unjustified. In his oral evidence he has never stated on which date he was dismissed from the service. On the other hand the evidence on behalf of the 1st Party-Management that, the 2nd Party was disengaged from the service in the year 1984 because he was disciplined and had tamper with the official records by destroying the attendance register and his own personal file. Admittedly the appointment of the 2nd Party was on casual and adhoc basis. So, he cannot claim for the post as I have already stated that he has failed to produce any paper to show that he was appointed in the post of Supervisor and worked till 31-3-1997. In Para-3 of his examination in chief, he himself has admitted that he left the job as no payment was made to him. This sentence would suggest that, no dismissal order was passed by the 1st Party-Management and he voluntarily left the job. So, it cannot be said that, the order of dismissal was passed by the 1st Party-Management who has admitted that the 2nd Party was disengaged as his appointed was purely on casual and adhoc basis. So, it cannot be said that, the dismissal order passed by the 1st Party-Management is illegal and unjustified.

ISSUE NO. III

8. In view of my findings given in respect of Issue No. I and II, the 2nd Party-Workman is not entitle for any relief.

9. Reference is answered accordingly.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.आ. 2435:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 708/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-2002 को प्राप्त हुआ था।

[सं. एल-40012/195/99-आई आर (डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th June, 2002

S.O. 2435.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 708/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the

employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 28-6-2002.

[No. L-40012/195/99-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 24th June, 2002

PRESENT :

K. Kurthikeyan, Presiding Officer

Industrial Dispute No. 708/2001

Tamil Nadu Principal Labour Court I.D. No. 358/99

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri V. Sarveswaran and the Management of General Manager, Telecom, Kancheepuram District, Chennai.]

BETWEEN

Sri V. Sarveswaran ... I Party/Workman

AND

The General Manager,

Telecom, Kancheepuram District,
Chennai.

...II Party/Management

APPEARANCES :

For the Workman : M/s. M. Gnanasekar and
C. Premavathy, Advocates

For the Management : Sri K. Sambasivam, Addl.
SGC

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned dispute for adjudication vide Order No. L-40012/195/99/IR(DU) dated 27th September, 1999.

This reference has been made earlier to the Tamil Nadu Principal Labour Court, Chennai where it was taken on file as I.D. No. 358/99. When the matter was pending enquiry in that Principal Labour Court, the Government of India, Ministry of Labour was pleased to order transfer of this case from that court to this Tribunal for adjudication. On receipt of records from that Principal Labour Court, the case has been taken on file as I.D. No. 708/2001 and notices were sent to the counsel on record on either side informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 17-10-2001 to prosecute this case further. On receipt of notice from this Tribunal, the counsel on either side appeared along with their respective parties and the Petitioner having filed the Claim Statement before the Tamil Nadu Principal Labour Court itself, the Respondent/Management has filed Counter Statement here before this Tribunal. On perusal of records, it

has found that in the earlier reference the name of the workman has been wrongly mentioned as Sri V. Saravanan instead of Sri V. Sarveswaran. After it was brought to the notice of the Ministry, the Ministry has issued a corrigendum dated 1-12-2000 to the original reference dated 27-9-99 to read the name of the workman as Sri V. Sarveswaran in the place of Sri V. Saravanan.

When the matter came up before me for final hearing on 15-5-2002, the counsel for the II Party/Management alone present and neither the I Party/ workman nor his counsel present and there was no representation at all for the I Party/Workman. Learned counsel for the II Party/Management represented that the II Party has no oral or documentary evidence and the Counter Statement of the II Party can be treated as his arguments. Since there was no representation for the I Party/Workman by the counsel on record, it was held no arguments for the I Party and orders were reserved to decide the matter on merits with the available materials and records.

Upon perusing the Claim Statement, Statement of objection filed by the II Party/Management, the other material papers on record, and after hearing the arguments advanced by the learned counsel for the 2nd Party/Management alone, this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows :—

“Whether the demand of the workman Shri V. Sarveswaran for reinstatement by the General Manager, Telecommunications, Chengalpattu as casual mazdoor is legal and justified? If not, to what relief is he entitled?”

2. The facts of the industrial dispute as pleaded by the I Party/Workman in the Claim Statement are briefly as follows :—

The I Party/Workman Shri V. Sarveswaran (hereinafter referred to as Petitioner) was engaged as casual mazdoor in the II Party/Management, Telecom Department (hereinafter refers to as Respondent) in 18-8-1983 for digging, drawing wires, laying posts and for other allied jobs as directed by his superiors. He was paid nominal wages of Rs. 4.75 as daily-rated wages. Though the Petitioner has been continuously working with the Respondent, and has put in 123 number of days of service, he had not been regularised. The Department of Telecommunication in order to absorb the casual mazdoors working in the department for a long period formulated a Scheme known as casual mazdoors (Grant of Temporary Status and Regularisation) Scheme. The Respondent/Telecom Department failed to confer temporary status on the Petitioner under the said Scheme, which is illegal and arbitrary. The I Party/Workman's service was terminated on 31-12-1985 and, when his services were terminated he was getting Rs. 7.25 as daily wages. When he approached the concerned authority, for conferment of temporary status, he was informed that he will be taken back to duty. The Petitioner was

waiting for orders from the Respondent/Telecom Department regarding his re-engagement. However, he has not received any orders nor he was taken back to duty so far. His service was utilised for the regular work that is perennial in nature. Therefore, when the work and the necessity to engage the Petitioner continuous, there is no reason or justification for denying the employment to the Petitioner. No reason was given by the Respondent/ Telecom Department for terminating the services of the Petitioner and the Respondent failed to follow the principles of natural justice. No enquiry was conducted and the Petitioner was not given any opportunity before his services were discontinued. The Petitioner has put in more than a decade continuous service and the termination of his service is in violation of the provisions of Section 25F of the Industrial Disputes Act, 1947. Further, the Petitioner was not given any notice or compensation in terms of the said provision of Industrial Disputes Act, 1947. Hence, the action of the Respondent/Department in terminating the services of the Petitioner without notice or compensation is ab initio void and the Petitioner is deemed to be in continuous in service and therefore, is entitled to be reinstated with all other service benefits including arrears of back wages. The Respondent ought to have conferred temporary status as per the temporary status scheme and further absorbed him against regular Group D post. The Respondent/Telecom Department's action in not doing so is illegal and arbitrary. Hence, this industrial dispute has been raised against the Respondent/Telecom Department to set aside the order of termination dated 31-12-85 as illegal and arbitrary and consequently to direct the Respondent/Management to reinstate the Petitioner in service w.e.f. 31-12-85 and to pay all arrears of back wages and all other attendant benefits.

3. The averments in the statement of objection filed by the II Party/Management (hereinafter refers to as Respondent) are briefly as follows :—

It is averred in the Statement of Objection that the contention of the Petitioner that he was appointed as Casual Labour on 18-8-83 and he had put in 123 number of days in service and he was terminated on 31-12-1985 are not correct. It is further averred in the Statement of Objection filed by the Respondent that the Petitioner, in his Claim Statement, had not pleaded about his engagement i.e. place of work and mode of employment and employed by whom. The Petitioner had not submitted any service particulars before the Labour Commissioner in the conciliation proceedings and also before this Hon'ble Tribunal till date to substantiate his claim made in the claim petition. In the absence of service particulars and in the absence of pleading, the department is unable to say whether the Petitioner has worked or not and also not able to file counter in detail in this case. Under such circumstances, the Respondent/Management reserve the right to file additional counter, if necessary. Hence, the Hon'ble Tribunal may be pleased to dismiss the claim petition.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. No documentary evidence has been let in on either side. Learned counsel for the II Party/Management alone has advanced his arguments

5. The Point for my consideration is—

“Whether the demand of the workman Shri V. Sarveswaran for reinstatement by the General Manager, Telecommunications, Chengalpattu as casual mazdoor is legal and justified? If not, to what relief is he entitled?”

POINT :—

The claim made by the Petitioner in this industrial dispute against the Respondent/Telecom Department is that the termination of the Petitioner from service by the Respondent/Management is illegal and he must be reinstated in service by the Respondent/Management from the date of the alleged termination from service, as mentioned in the Claim Statement. According to the Petitioner, he was engaged by the Respondent/Management Department of Telecommunication as casual mazdoor on 18-8-1983 and worked continuously till 31-12-1985 as he has stated in his Claim Statement. It is his further allegation in the Claim Statement that all of a sudden he was terminated and the action of the Respondent/Management Telecommunication Department in terminating him from service in not following the provisions of the Industrial Disputes Act, 1947 is ab initio void and against law. Since the said action of the Respondent/Management is illegal, he must be reinstated in service by the Respondent/Management from the date of the termination of service i.e. on 31-12-1985. The learned counsel for the Respondent/Management would contend that the Petitioner has to prove strictly his allegation in the Claim Statement that he was engaged as a Casual Labour on 18-8-83 and was continuously working for the period of 123 days till he was terminated by the Respondent on 31-12-85. He would further contend that in the Claim Statement of the Petitioner, nothing has been mentioned as to who has appointed him in service and where he has worked and who in the Respondent Department has terminated him from service. It is further contended that the Petitioner had not submitted any service particulars before the Labour Commissioner in the conciliation proceedings and also before this Hon'ble Tribunal till date to substantiate his claim made in the claim petition in respect of this industrial dispute. It is specifically averred in the statement of objection filed by Respondent/Management that in the absence of service particulars and in the absence of pleading, the department is unable to say whether the Petitioner has worked or not and also not able to file counter in detail in this case. All these specific averments in the Statement of objection have not been disputed or denied by the Petitioner/Workman who raised this industrial dispute. Under such circumstances, the contention of the Respondent in their Statement of objection stands un rebutted. In the absence of any material available in this case to show that the Petitioner has been engaged by the Respondent/Management in doing the work of the department as casual mazdoor, he cannot make a claim against the II Party/Management for reinstatement in service with continuity of service and back wages. From the materials available in this case and from the failure to prove the stand taken by the Petitioner in his Claim Statement against this Respondent/Management, it can be said that the Petitioner has initiated this industrial dispute only as a futile exercise for getting an employment in the Telecom Department at any cost. So under such circumstances the question of

Respondent not following the provisions of Industrial Disputes Act, 1947 and the issuance of prior notice and retrenchment compensation under Section 25F of Industrial Disputes Act, 1947 was not at all arise. Hence, the Petitioner/Workman Sri V. Sarveswaran is not entitled to the relief, he prayed for in this dispute against the II Party/Telecommunication Department of Kancheepuram District, Chennai. Thus, the point is answered accordingly.

6. In the result, an Award is passed holding that the I Party/Workman Sri V. Sarveswaran is not entitled to any relief. No Cost.

(Dictated to the Stenographer transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th June, 2002.)

K. KARTHIKEYAN Presiding Officer

Witnesses Examined :—

On either side : Nil

Documents Marked :—

For 2nd Party—Union : None

नई दिल्ली, 28 जून, 2002

का.आ. 2436 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल सिल्क बोर्ड के प्रबंधसंघ के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलोर के पंचाट (संदर्भ संख्या 82/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-2002 को प्राप्त हुआ था।

[सं. एल-42012/20/95-आई आर (डी यू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th June, 2002

S.O. 2436.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/98) of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Silk Board and their workman, which was received by the Central Government on 28-6-2002.

[No. L-42012/20/95-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
"SHRAM SADAN", III MAIN, III CROSS,
II PHASE, TUMKUR ROAD, YESHWANTPUR,
BANGALORE

Dated : 17th June, 2002

PRESENT :

Hon'ble Shri V. N. Kulkarni, B Com., LLB.—
Presiding Officer, CGIT-cum-Labour Court,
Bangalore.

C. R. No. 82/98

I Party :

Shri P. Mallesha,
S/o Puttamalliah,
Kempapura,
Chikkabanavara P. O.,
Yeshwanthpur,
Bangalore North-560090.

II Party :

The Chairman,
Central Silk Board,
39, United Mansion,
M. G. Road,
Bangalore-560001.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-42012/20/95-IR(DU) dated 15th September, 1998 for adjudication on the following Schedule :

SCHEDULE

"Whether the management of Central Silk Board is justified in terminating the services of Shri Mallesha? If not, what relief the workman is entitled to?"

2. First Party was working with the management and he was terminated from service, therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively. The case of the workman in brief is as follows :

4. The workman was taken as Daily Wager and he was paid monthly salary. He was working as Peon and the nature of work was permanent.

5. It is the further case of the workman that he has completed 240 days of service ever since he joined the services of the Second Party but he was refused employment which is not correct. His services were terminated without complying the provisions of Section 25-F of the Industrial Disputes Act and it is a clear case of retrenchment. No notice was given to him. No enquiry was conducted.

6. It is the further case of the workman that Mr. Jayaraman, Mr. Munikrishna and Mr. Shankar were appointed and they were discharging work with the first party workman. Workman made several representations but nothing has been done. There is unfair labour practice. Management appointed other persons and the action of terminating the first party is illegal.

7. It is the further case of the workman that the Government of India, Ministry of Labour declined to refer the matter and therefore he filed a writ petition and the matter is referred. Workman for these

reasons and for some other reasons has prayed to pass award in his favour.

8. The case of the management in brief as follows :—

9. It is true that the workman joined the services of the Second Party in the month of May, 1985 as Peon on daily wage basis. His name was sponsored by the District Employment Exchange. He was appointed purely on daily wage basis.

10. It is the further case of the management that the Second Party being Government of India, has to follow certain procedure in regularizing the services of daily wager. A letter was sent to the District Employment Exchange to send the fresh names of the candidates for the permanent post of the peons and the District Employment Exchange sent a letter dated 16-9-1985 enclosing the list of eligible candidates who can be appointed for the regular post of peons and the name of the first party was not in that list.

11. It is the further case of the management that the workman abandoned the service in the year 1986 and did not show any interest. He was not paid monthly salary. The first party has to prove that he worked for 240 days. It is not a case of retrenchment. The persons named by the first party workmen were recommended by the District Employment Exchange. There is no violation of provisions of Section 25 (G) & (H) of Industrial Disputes Act. The Second Party for these reasons and for some other reasons has prayed to reject the reference.

12. It is seen from the records that the management examined one witness who is working as Superintendent. His evidence is that the first party was appointed as Temporary Peon on daily wages.

13. He further says that for regular appointment they have to follow the prescribed procedure and the candidates have to be sponsored by the Employment Exchange. First party was not sponsored by Employment Exchange. Ex. M1 to M10 are the wage bills in which name of the first party is at S. No. 5. Ex. M11 is the statement and according to Ex. M11 the workman has worked only for 208 days. No appointment order was issued. Ex. M12 is the list given by the Employment Exchange but the name of the first party is not in the list.

14. Against this workman got examined himself as WW1. Some documents are also marked. According to the workman he joined in May 1985 and worked till February, 1986. He says he was interviewed and taken as Peon. In March, 1986 he was terminated.

15. I have carefully perused the documents filed by the parties. I have read the evidence carefully. According to the evidence of MW1, for the appointment of regular post, the Employment Exchange has to send the list of candidates. But in the list sent by the Employment Exchange the name of the first party was not found and therefore, he was not considered for regular appointment.

16. I have perused Ex. M12. The name of the first party is not found in the list sent by the Employ-

ment Exchange for the post of Peon. The management as produced, the extract of Ex. M11 and according to this the workman has worked only for 208 days on which the workman worked. The number filed by the management.

17. The management has also produced the records showing nominal roll at labourers engaged in Central Silk Board from May, 1985. This record shows that daily wages were paid to the workman on the days on which the workman worked. The number of days worked is also shown in this statement.

18. With this document and the evidence of MW1. I am of the opinion that the workman was taken as temporary Peon on daily wages. He worked only for 208 days.

19. Further his name was not in the list sent by the Employment Exchange considering him for the regular post.

20. Against all this the workman has given evidence and produced two documents, Ex. W1 and Ex. W2, certificates given by Shri C. R. Dakshinamoorthy, Dy. Secretary (Admn.) and Mr. A. K. Dash, Assistant Secretary, Central Silk Board respectively. Without examining the concerned officers it is not safe to rely on these 2 documents. Further Ex. W1 and Ex. W2 will not help to prove that the workman is entitled for permanent post.

21. MW1 has stated that he does not know which officer has given work to the first party. These two certificates will not help the workman. In view of the documentary evidence filed by the management regarding the number of days for which the first party worked and extract is also filed in this case.

22. I have carefully considered the number of days for which the workman worked and according to the statement of the department, he worked only for 208 days. I have considered the written arguments given by the workman. It is not a case of retrenchment because the workman was taken only as Temporary Peon on daily basis and he has not worked for 240 days and he himself has not attended work and left the management.

23. Considering all this I am of the opinion that there is no merit in this reference and I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed me on 17th June, 2002).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 27 जून, 2002

का.आ. 2437.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद

में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (संदर्भ संख्या 13/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-2002 को प्राप्त हुआ था।

[सं. एल-22012/73/98-आई आर (सी-II)]

एस. एस. गुप्ता, अधिवक्ता सचिव

New Delhi, the 27th June, 2002

S.O. 2437.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 26-6-2002.

[No. L-22012/73/98-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, ASANSOL

PRESENT :

Shri Ramjee Pandey, Presiding Officer.

Reference No. 13 of 1999

PARTIES :

Bahula Colliery of ECL. . . Management.

Vrs.

Shri S. K. Pal and others, . . . Workmen.

APPEARANCES :

For the management : None.

For the Workmen (Union) : None

INDUSTRY : Coal. STATE : West Bengal.
Date : 13-6-2002.

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, Government of India through the Ministry of Labour vide its Order No. L-22012/73/98/IR(CM-II) dated 22-1-1999 has referred the following dispute for adjudication by this Tribunal :

“Whether the action of the management of Bahula Colliery of M/s. ECL in promoting eight clerical staffs grade-II to grade-I and two clerical staffs from grade III to grade II on the recommendations of CPC and subsequently reviewing the list without reviewing the DPC by ignoring the senior staffs Shri S. K. Pal, Shri B. C. Mukherjee, Shri B. R. Sharma and Shri S. C. Chakravorty is legal and justified? If not, to what relief are the workmen entitled?”

2220 GI/2002—8

After receiving the reference summons were sent to the parties by registered post but none of the parties appeared till before 29-1-02. Again summons by registered post were sent to the parties. In response to the summons management appeared through Shri P. K. Das, Advocate who filed a petition for time. Although summon was served on the secretary of the union viz. Colliery Mazdoor Congress on 28-12-2001 but still union did not appear. Considering non-appearance of the workman (union) the reference was fixed for ex-parte hearing. Uptil now management did not file any written statement and today none appears even on behalf of the management. In view of above circumstances it is clear that neither the management nor the workman is interested to contest the dispute and hence a ‘No Dispute Award’ is passed.

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 27 जून, 2002

का. आ. 2438 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. सी. एल. प्रबंधन के संबंध निवोधकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर पंचाट (संदर्भ संख्या 128/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-2002 को प्राप्त हुआ था।

[सं. एल- 22012/356/96-आई आर (सी II)]

एस. एस. गुप्ता, अधिवक्ता सचिव

New Delhi, the 27th June, 2002

S.O. 2438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 128/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MCL and their workman, which was received by the Central Government on 26-6-2002.

[No. L-22012/356/96-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. Industrial Dispute Case No. 128/2001

Date of conclusion of hearing—31st May, 2002

Date of Passing Award—18th June, 2002

BETWEEN

The Management of the Project Officer,
Deulbera Colliery, At/P.O. Deulbera
Colliery, District Angul,
Orissa.

... 1st Party/Management.

AND

Their Workmen, Shri Bholeswar Behera,
Represented through the General Secretary,
Talcher Coal Mines Employees Union,
At. Remua. P.O. Talcher,
District Dhenkanal.

... 2nd Party/Union.

APPEARANCES :

Shri Ajit Kumar Parija : For the 1st Party—
Personnel Manager. Management.

For 2nd Party—Union.—None.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-22012/356/96-IR(C-II), dated 29-8-1997 :

“Whether the action of the Management of Talcher Colliery of MCL in terminating the services of Shri Bholeswar Behera, Loader Grade ‘B’ Deulbera Colliery is legal and justified? If not, to what relief is the workman entitled and from which date?”

2. The case of the 2nd Party—Workman as pleaded in his Claim Statement runs thus :

He joined in Deulbera Colliery on 12-2-1975 and worked as a Loader. Due to his illness he was unable to attend the duty from 3-10-1985 to 8-5-1986. He intimated about his illness to the 1st Party—Management from time to time. He was made fit and when he reported for duty on 28-5-1986 the 1st Party—Management has served a termination order. The 2nd Party handed over the Medical Certificate to the Project Officer on 29-5-1986 and prayed for withdrawal of the termination order and allowed him to work. But the termination order was not withdrawn. So, he raised the dispute, as the reconciliation failed, the Government of India (Ministry of Labour) has made the present reference. The 2nd Party has prayed that the termination order passed by the 1st Party—Management is illegal, unjustified. Further prayer has been made for reinstatement with full back wages from 8-5-1986.

3. The 1st Party—Management has filed their Written Statement. The 1st Party—Management in their Written Statement has pleaded that the 2nd Party has remained unauthorized absent from duty from 3rd October, 1985 to 8th May, 1986 without any application for leave and without any intimation to the 1st Party—Management. So his name was struck out from the rolls of the Company. Thereafter in the year 1994 i.e. after 8 years he raised a dispute before the Talcher Coal Mines Employees Union on the ground

that the services of the 2nd Party has been terminated without complying with Section 25-F of the Industrial Disputes Act. It has been further pleaded that the 2nd Party was remained unauthorized absent without giving any intimation and without prior permission. The order of termination was issued in conformity with the provisions of the certified standing order as applicable at that time. The other facts stated by the 2nd Party, has been denied by the 1st Party—Management. The 1st Party—Management has taken the plea that the reference is not maintainable being a stale one.

4. On the above pleadings of the parties the following issues have been settled :

1. Whether the reference is maintainable?
2. Whether the action of the Management of Talcher Colliery of M.C.L. in terminating the services of Shri Bholeswar Behera, Loader Grade ‘B’ Deulbera Colliery is legal and justified?
3. To what relief the workman is entitled?

FINDINGS

5. Before expressing any opinion in respect of the Issues settled, it may be stated here that, after settlement of issues the case was adjourned for evidence of the 2nd Party as submitted, but thereafter no oral evidence has been adduced on behalf of the 2nd Party who remained absent and has not taken part in the proceeding. The 1st Party—Management has adduced evidence in shape of affidavit.

ISSUE NO. I :

6. In the Claim Statement the 2nd Party has stated that his service was terminated on 28-5-1986. Reference, was received by the Tribunal from the Government of India in the year 1997. No materials have been placed as to why there was delay in raising the dispute. Though no limitation has been provided in the Industrial Disputes Act, but the dispute should be raised within the reasonable period. In this case the dispute has been raised after 11 years. So, I find much force on the contention made on behalf of the 1st Party—Management that the reference would not be maintainable being stale one. Hence, this Issue is answered accordingly.

ISSUE NO. II :

7. The case of the 2nd Party is that he remained absent due to his illness and his absence was intimated to the 1st Party—Management from time to time. But no documents have been produced on behalf of the 2nd Party that his absence was intimated to the authority from time to time. Copy of the letter dated 11-9-1989 of the 2nd Party enclosed as one of the Annexure to his Claim Statement. It reveals that, he has intimated that he was under the treatment and he has submitted the medical certificate in support of his treatment. But this letter does not reveal that the 2nd Party had intimated about his absence when he was undergone treatment. The 2nd Party has not come to the witness box to state on oath that he has intimated to the authority about his absence. Though some copies of the documents have been filed on behalf of the 2nd Party those are to be proved by him coming

to the witness box. On the other hand, the 1st Party—Management has filed the affidavit of one Shri Sudhakar, Pradhan, who has stated that the 2nd Party was absent from 3-10-1985 to 8-5-1986 without any application for leave and without any intimation to the 1st Party—Management. He has further stated that if actually the 2nd Party was sick he may have treated by the company hospital. Further evidence is that he has never applied for medical leave supporting by prescription or medical certificate of any medical practitioner. So, according to the witness of the 1st Party—Management the name of the 2nd Party was struck out from the roll of the company with effect from 8-5-86. This evidence of the 1st Party—Management stands unchallenged. So, it cannot be said that, the action of the 1st Party—Management in terminating the services of the 2nd Party is illegal and unjustified.

ISSUE NO. III :

8. In view of my findings given in respect of Issue Nos. I and II, the 2nd Party—Workman is not entitled for any relief.

9. Reference is answered accordingly.

Dictated and corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 27 जून, 2002

को. आ. 2439—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (संदर्भ संख्या 6/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-02 को प्राप्त हुआ था।

[सं. एल-22012/298/95—आई आर. (सी-II)]

एस. एस. गुप्ता, अवसर सचिव

New Delhi, the 27th June, 2002

S.O. 2439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 6/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 26-6-2002.

[No. L-22012/298/95-IR(C-II)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT :

Shri Ramjee Pandey, Presiding Officer.

Reference No. 6 of 1996.

PARTIES :

Moirra Colliery of M/s. E.C.L. Management.
Vrs.

Sh. Surendra Dolai Workman.

APPEARANCES :

For the management—Shri P. K. Das, Advocate.

For the workman (Union)—Shri M. Mukherjee, Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated 14-6-2002

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of section 10 of the Industrial Disputes Act, 1947, Government of India through the Ministry of Labour vide its order No. L-22012/298/95-IR(C-II) dated 14-2-96 has referred the following dispute for adjudication by this Tribunal.

“Whether the action of the management of Morira Colliery under Bankola Area of M/s. E.C.L. in dismissing Sh. Surendra Dolai, Ex-U.G. Loader is legal and justified? If not, what relief the workman is entitled to?”

After receiving the reference summons were sent to the parties in response of which both the parties appeared and filed their respective written statements. Shri P. K. Das, Advocate appeared for the management and Shri M. Mukherjee, Advocate appeared for the union (workman).

The facts of the case in brief are that the workman viz. Shri Surendra Dolai, was a permanent employee of Moirra Colliery of M/s. E.C.L. and he was posted as U.G. Loader. The workman became absent from his duty from 19-10-93 to 27-11-93 i.e. for a period of one month eight days for which he was charge-sheeted and after a domestic enquiry he was dismissed from his service on this ground alone.

The case of the workman in brief is that the workman became absent from his duty on account of his mental disbalance for which he was undergoing medical treatment at Berhampur Govt. Hospital and was under treatment of Dr. G. C. Kar. When the workman became fit to some extent he intimated the fact of his illness to the management and made request to grant him leave for that period. He informed the management by letter dated 17-3-94 under certificate of posting. Further case of the workman is that the order of dismissal is illegal arbitrary and unjustified. Before the punishing the workman by dismissing him from service the management neither conducted any enquiry in his presence nor supplied the copy of any enquiry report. In any view of the matter the dismissal of the workman from service is a severe punishment and disproportionate to the alleged misconduct.

On the other hand the case of the management is that the workman remained absent for such a long period without grant of any kind of leave or any information to the management and hence the absence of the workman is illegal and a serious misconduct on his part. The management served a charge-sheet to the workman and the domestic enquiry was conducted in presence of the workman during which the misconduct of the workman was established. After considering the enquiry report the management found that misconduct of the workman was established and accordingly the workman was dismissed from service. Further case of the management is that the order of dismissal is justified and the management had no other alternative.

Although the union has pleaded in the written statement that the domestic enquiry was not conducted either in presence of the workman or to his information but before the Tribunal did not challenge the fairness of domestic enquiry rather admitted that there was no invalidity in the enquiry proceeding and accordingly by order dated 2-4-98 Learned the then Presiding Officer came to the conclusion that there was no invalidity in the proceeding of domestic enquiry and hence both the parties were heard to placed reliance on the enquiry report and the evidence adduced during the same.

Learned lawyer appearing for the workman could not assail the finding of enquiry officer during the domestic enquiry. I also perused the report of the enquiry officer and I do not find any illegality therein.

Learned lawyer for the workman challenged the quantum of punishment and submitted that the workman has been charged for absence only from 19-10-93 to 27-11-93. He was not charged for any previous absence. There is nothing on the record to show that the workman was ever punished for any misconduct and hence the nature of misconduct does not warrant such a serious punishment. Learned lawyer for the management made an attempt to justify the punishment of dismissal of workman from service but he fairly admitted that it is a capital punishment.

Although in the written statement of the union it has been pleaded that the workman became absent for the concerned period due to his mental sickness but no evidence was given by the workman during the enquiry in support of the fact of his illness and hence the plea of illness cannot be accepted. Proved and admitted fact on the record is that the workman remained absent from his duty for a period of one month and eight days without any leave or prior information to any authority of the management and hence the finding of the enquiry officer to the effect that absence of the workman was unauthorised, is correct.

Now only point for consideration is as to whether the punishment of dismissal is proportionate to the nature of misconduct. As mentioned above it is admitted fact that no previous absence of the workman has been proved. It was the first instance that the workman became absent for such period. Considering the facts and circumstances on the record and the nature of misconduct, in my opinion the punishment of dismissal of workman from service is too severe and it is disproportionate. A lesser punishment could meet the ends of justice and the same could

be a compelling circumstance to get the workman reformed himself for future. In this view of the matter the order of dismissal is set aside and the management is directed to reinstate the workman. Since the absence of the workman has been found to be unauthorised he will be entitled to get only half of the back wages. In the above manner the award is passed.

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 28 जून, 2002

का. प्रा. 2440 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/भ्रम न्यायालय नागपुर के पंचाट (संदर्भ संख्या 66/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-6-2002 को प्राप्त हुआ था :

[सं. एल-12012/134/2001-आई. प्रा. (बी-II)]
सी. गंगाधरण, प्रवर सचिव

New Delhi, the 28th June, 2002

S.O. 2440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 10-6-2002.

[F. No. L-12012/134/2001-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. Saxena, Presiding Officer

REFERENCE NO. CGIT : 66/2001

PUNJAB NATIONAL BANK

AND

SHRI NITIN RAGHUNATH
CHODHARY

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers

conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-12012/134/2001-IR(B-II) dt. 31-8-2001 on following schedule :—

SCHEDULE

"Whether the action of the Punjab National Bank through its Regional Manager, Nagpur in not considering for compassionate appointment to Shri Nitin Raghunath Choudhary, S/o. Raghunath Sukhlal Choudhary who expired on 5-10-95 while in service, is legal, proper and justified. If not, what relief the said applicant is entitled to?"

The workman Nitin Raghunath Chaudhary has submitted Statement of Claim on 7-2-2002. He has mentioned that his father Raghunath Sukhlal Choudhary was an employee of Punjab National Bank at Akola. He died on 5-10-95. The workman claimed that he had moved application for appointment in Punjab National Bank on compassionate ground. His application dt. 6-8-98 was not considered by the management.

The workman has himself mentioned in Statement of Claim that the Bank did not consider his case because the family member of the deceased were in service and were earning substantial amount.

This dispute was not raised by the union and the workman has claimed employment in his individual capacity. This dispute is therefore not an Industrial Dispute.

Moreover the management was not under an obligation to give employment to the claimant if the family member of the deceased are already in service and can maintain the family of the deceased.

The reference has therefore no merit. It is not maintainable and therefore the reference is dismissed.

ORDER

The workman Nitin Raghunath Choudhary is not entitled to the relief claimed by him.

The reference is disposed of accordingly.
Date : 21-5-2002

B. G. SAXENA, Presiding Officer

नई दिल्ली, 28 जून, 2002

का. घा. 2441:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिन्डिकेट बैंक के प्रबंधन के संबंध में निम्नलिखित आदेशों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलूर, के पंचाट (संदर्भ संख्या 73/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-6-02 को प्राप्त हुआ था।

[सं. एल. 12012/4/99-आई. आर. (बी-II)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 28th June, 2002

S.O. 2441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 73/99) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 27-6-2002.

[No. L-12012/4/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 11th June 2002

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LLB, Presiding Officer.

CGIT-CUM-LABOUR COURT, BANGALORE

C. R. No. 73/99

I PARTY

The General Secretary,
Syndicate Bank Staff
Association,
Ananda Rao Circle,
Anooradha Building
Subedar Road,
Bangalore-9.

II PARTY

The Zonal Manager,
Syndicate Bank,
Zonal Office,
Gandhinagar,
Bangalore-9.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/4/99-IR(B-II) dated 28th May 1999 for adjudication on the following Schedule :

SCHEDULE

"Whether the action of the management of Syndicate Bank in terminating the services of Smt. R. Hemalatha Clerk, Syndicate Bank, Tumkur Branch is justified and legal? If not, what relief Smt. R. Hemalatha is entitled to?"

2. The first party union has raised this dispute. The workman Smt. R. Hemalatha was working as Clerk with the management. She remained unauthorisedly absent and therefore, the management terminated her services. Therefore Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter, respectively.

4. The case of the first party union is as under.

5. The first party Union workman Smt. R. Hemalatha joined the Second Party Bank as Clerk at Mysore Road Bangalore Branch on 12th March 1984 and thereafter was transferred to Tumkur branch of the bank in the year 1989 where she was working till her termination with effect from 20-12-1996.

6. It is her further case that she could not report for duty on 30-7-1996 because of her ill health. She kept the management informed about her absence by applying leave of appropriate kind including extra ordinary leave on loss of pay and allowances on medical grounds periodically. When she recovered from her illness, she went to report for duty on 24-12-1996 at Tumkur Branch but she was not allowed to report for duty. She contacted higher authorities but nothing was done.

7. It is the further case of the workman that the clause under which the workman was terminated from the service of the Bank is not in accordance with law because she is the permanent employee. The provisions relating to Voluntary cessation of employment clause 17 of the V. Bipartite Settlement stipulated that the employer in his notice should state the grounds for the management in coming to the conclusion that the employee had to intention of joining duties and also should furnish necessary evidence. But the management has failed to follow the correct procedure and the action of the management is illegal and arbitrary.

8. It is the further case of the first party that show cause notice was never served on the first party workman and it was displayed on the staff notice board of Tumkur Branch on 23rd November 1996. The main contention of the workman is that the notice was not served and the action of the management is illegal.

9. Against this the case of the management in brief is as follows:—

10. It is the case of the management that she remained unauthorisedly absent for 129 days during the period 21-1-1987 and 26-8-1992. Enquiry was conducted and a punishment of Warning was imposed on her.

11. It is the further case that she remained unauthorisedly absent from duties for a period of 191 days. She has not followed the leave rules of the bank.

12. In spite of showing leniency she did not improve her conduct and once again remained unauthorisedly absent for 128 days for the period 12-6-1995 to 28-10-1995 and again she was awarded with a punishment of Warning and stoppage of increment for a period of 6 months. She was also not attending the work properly as stated in para 6 of the Counter. She again remained absent for 90 days w.e.f. 30-7-1996 and therefore the management was constrained to invoke the provision of Clause 17(a) of the Bi-partite Settlement 1989.

13. It is the further case that a notice dated 16th November, 1996 was addressed to the first party workman calling her to report for duties within a period of 30 days failing which she would be deemed to have voluntarily retired from Bank's services on expiry of 30 days period. This notice was sent to the last known address of the first party workman though registered post acknowledgement due. She did not respond to the said notice and therefore the management rightly invoked the provisions of clause 17(b) of the Bipartite Settlement w.e.f. 20th December, 1996. Leave applications are not proper. The action of the management is correct. The term termination of Service cannot be equated with abandonment of service.

14. In para 12 of the Counter provisions of Clause 17(a) are stated. It was the duty of the workman to inform the bank and to adhere to the leave rules of the bank but the workman has not done the same. Management for these reasons and for some other reasons has prayed to reject the reference.

15. It is seen from the records that the management examined MW1, Shri H. Ramachandra Bhat. His evidence is that during the relevant time he was working at Zonal Office. First party workman was working as Clerk Service conditions are governed by as per provisions of Bipartite Settlement.

16. It is further stated by him that the first party workman was continuously absent without any sanction of leave for more than 90 days and he has given the dates of absence. Letter, Ex. M1 was sent to her and it was returned saying that she has left Bangalore. She was asked to report for duty within 30 days as per clause 17(a) of the Bipartite Settlement. She did not report for duty and no representation was given. Thereafter bank issued final notice, Ex. M2. It was also returned saying that she has left Bangalore. Again she remained absent. He is cross examination by the workman, but nothing is made out from his cross examination so as to say that the bank has not followed the required procedure for invoking Clause 17 of the Bipartite Settlement. According to the cross examination of MW1 the letter was dispatched by registered post on 21st November 1996.

17. Against this the workman has given evidence. Her evidence is that she was not well and she informed the bank on 1-8-1996. She further says that she has not received any registered notice from the Bank.

18. Before I proposed further in a case like this the workman have to examine thoroughly to believe the case of the workman. For the reasons best known to her that she was not examined further. She says in her evidence that she has not received the registered notice sent by the bank on 16-11-1996.

19. Here further evidence is that she was residing at the permanent address given to the bank. She says that she has not received any notice from the Postal Department. She says that on 24-12-1996 she went to bank to report for duty and the staff informed her that she was absent so she will be removed. Manager was not present. She was not allowed to report for duty, Ex. W4 is the letter. She has approached the higher authorities but nothing was done. She is cross examined by the management. She admits in her cross examination that from 30-7-1996 to 16-11-1996 she was absent and she was not on leave. This cross examination itself is sufficient to say that for a long period the workman remained absent without any leave. She says she had abdominal pain and she took treatment as out patient in Mathikera Nursing Home. In the next sentence she says that she has not filed any medical certificates anywhere i.e. before the bank or before the Tribunal. Absolutely it is not established by the workman that she was seriously ill and she could not even apply for leave and intimate the bank about her illness. She has not filed any medical certificates. If we consider this cross-examination of the workman it is very difficult to believe the case of the workman that because of her illness she could not work at the bank. She states in her cross examination that her address as seen in Ex. M1 is correct. In other words the management has sent notice to invoke the provisions of Bipartite Settlement at the last given address by the workman herself.

20. She says in her cross examination that she has not gone to post office because Postman has told that he will come to her house. If this is to be believed it is very difficult to consider the case of the workman that she has not received any notice from the postal department. In other words she was aware of the fact that a registered letter had come from the bank but she has avoided to receive the same. In view of this there is no merit in the say that the notice served by the management is not proper and the action of the management is illegal. She says that many of the staff informed her that she will be removed. Manager said that She cannot be permitted to join duty and he gave her letter. She has not given anything in writing to the higher authorities. She admits about her earlier absence and minor punishments. This shows that she is not interested in the job and she was unauthorisedly absent regularly.

21. Taking all this into consideration I am of the opinion that the management has proved that she remained unauthorisedly absent for a long period and the management has correctly followed the procedure and notice was sent to her address but she was avoided to receive it. The action of the management is correct.

22. I have read the Written Arguments given by the first party. It is nothing but repetition of Claim Statement. There is no merit in the contention of the workman that the postman returned the undelivered notice to the second party with the remark "Left Bangalore" and put the date below his remarks as on 26th November 1996. The notice is served and there is no merit in the contention that the remark of the postman is not correct. There is no merit in saying that the management was required to wait for 30 days from 26-11-1996 which falls on 27-12-1996 to strike off the first party name from the rolls.

23. I have already said that the workman is not interested in the work of the Bank. I have given my best consideration to the material before me and I am of the opinion that the workman had no intention to continue her services and she was unauthorisedly absent regularly. The action of the management is correct. Therefore, I proceed to pass the following order.

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 11th June 2002).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 28 जून, 2002

का. आ. 2442:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलोर के पंचाट (संदर्भ संख्या 12/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-6-02 को प्राप्त हुआ था।

[सं. एल-12012/163/98-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 28th June, 2002

S.O. 2442.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/99) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 27-6-2002.

[No. L-12012/163/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT "SHRAM SADAN", III MAIN, III CROSS, II PHASE, TUMKUR ROAD, YESHWANTHPUR, BANGALORE

Dated : 14th June, 2002

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LLB,
Presiding Officer,
CGIT-cum-Labour Court,
Bangalore.

C.R. No. 12/99

I PARTY

The General Manager(P),
Vijaya Bank,
Head Office,
M. G. Road,
Bangalore-1.

II PARTY

The Secretary,
Vijaya Bank Employees Federation,
Cubbonpet Main Road,
Bangalore-2.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/163/98-IR(B-II) dated 27th January, 1999 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Vijaya Bank in terminating the services of Shri R. Jaichandra Singh, Special Assistant is legal and justified and whether the enquiry conducted by the management of Vijaya Bank is proper, justified and in accordance with the principles of natural justice? If not, to what relief Shri R Jaichandra Singh is entitled to?"

2. The first party was working with the Second Party. He was dismissed from service and therefore Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. The management issued charge sheet to the first party contending that on 5th December, 1995 the workman applied for credit facility of Rs. 13,900 with Weizmann Ltd; falsely stating that his monthly salary as Rs. 11,130.10 for the month of November, 1995 but the Bank's records show that he was drawing a salary of Rs. 6,145.20 for the said month. He has produced an inflated salary slip to the said company by forging the signature of Branch Manager and unauthorisedly affixing the branch seal on the inflated salary seal. He has purchased silk fabrics at KSIC shop at Leo Complex, Residency Road, Bangalore on credit basis under the scheme meant for Government employees/Bank employees by paying 25 per cent of the cost of fabrics in cash and the remaining balance by issuing six post dated cheques of Rs. 1,354 on his SB Account maintained by Byatarayanapura branch cheques have been returned unpaid.

6. Enquiry was conducted and on the basis of the enquiry charges were proved but the contention of the workman is that the charges were not proved and documents were not sent for handwriting expert.

7. It is the further case of the workman that the transaction between the first party and the second party are beyond the scope of the employment. The act of the first party is nothing to do with his official duty and therefore the act cannot be called as misconduct. The charge sheet issued is not correct. The findings of the Enquiry Officer are perverse. No personal hearing was given. The punishment imposed is not correct. The first party workman for these reasons and for some other reasons has prayed to pass award in his favour.

8. Against this the case of the management in brief is as follows :—

9. The main contention of the management is that the workman applied for credit facility for Rs. 13,900 with Weizmann Ltd., and produced false Salary certificate. He issued post dated cheques by purchasing Silk Fabrics and the cheques were returned unpaid for want of sufficient balance in his SB A/c. No. 8751. The workman declared his salary giving false figures. Details of the cheque are given in Para 5 of the Counter.

10. Charge sheet was issued and enquiry was conducted. Enquiry is fair and proper. Details of the enquiry proceedings are given in para 7 and 8 of the Counter. The first party workman advised to submit the written brief and the letter was issued by the workman. The enquiry officer after proper analysis of the evidence placed on the records held that the charges are proved and the allegations made by the workman are not correct. The enquiry was conducted as per the provisions of Bipartite Settlement.

11. It is the further case of the management that on previous occasions punishments were imposed as stated in para 17 of the Counter.

12. It is the further case of the management that the first party misused his official position and forged the signature of the superior officials and availed the credit facilities and the allegations that there is no previous punishment imposed on the workman are not correct. Management for these reasons and for some other reasons has prayed to reject the reference.

13. It is seen from the records that the management examined MW1. He has stated that he conducted enquiry. The first party did not attend enquiry inspite of service of notice. He has given detailed evidence in respect of records and the enquiry.

14. It is seen from the records that the workman has not examined himself. He remained absent. This Tribunal by its order dated 29th May, 2002 has held that the Domestic Enquiry is fair and Proper.

15. Thereafter the case was posted for arguments on merits. In the meanwhile the learned counsel appearing for the workman has submitted that he has no instructions from his client. First Party also did not appear.

16. I have heard the learned counsel appearing for the management. I have considered all the documents and the evidence recorded in this case.

17. Now that the enquiry is held as fair and proper, the workman has to establish that the finding given by the Enquiry Officer is not correct and the same is perverse. Unless this is established it is not proper to interfere with the punishment imposed by the management.

18. I have carefully perused the entire enquiry proceedings. I have read the evidence and perused the documents of enquiry proceedings. In my opinion the Enquiry Officer has considered the material before him and appreciated the evidence and has come to the correct conclusion.

19. According to the Enquiry Officer misconduct is proved. The allegation against the workman that he has forged document which is a grave misconduct for a workman working in the Public Sector Bank.

20. I have already said that the workman has not established as to how the findings of the Enquiry Officer is perverse.

21. The learned counsel appearing for the management has relied the following decisions :

- (1) 2000(II)LLJ 1395(SC)
- (2) 2001(I)LLJ 1330(SC)
- (3) AIR 1998 SC 2311
- (4) AIR 1997 SC 2661
- (5) JT 1989(2)SC 132
- (6) 1999(II)LLJ 155
- (7) ILR 2001 KAR 2650.

22. I have read them carefully. Keeping in mind the principles held in the above decisions and the facts of the case I am of the opinion that there are no grounds to interfere with the punishment imposed by the management. The Hon'ble Supreme Court of India has held in the above decision that if the misconduct is proved showing sympathy is uncalled for.

23. I have given my best consideration to the material before me and I am of the opinion that the punishment

imposed by the management is correct and accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 14th June, 2002.)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 28 जून, 2002

का. प्रा. 2443 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंजीनियर्स इंडिया लि. के प्रबंधन के संबंध निवेदनों और उनके कर्मचारियों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई-2 के पंचाट (सर्वे संख्या 109/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-6-02 को प्राप्त हुआ था।

[सं. एन-29012/32/2001-आई प्रार (एम)]

सी. गंगाधरन, प्रवर सचिव

New Delhi, the 28th June, 2002

S.O. 2443.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 109/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai-2, as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Engineers India Ltd. and their workman, which was received by the Central Government on 6-6-2002.

[No. L29012/32/2001-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

S. N. Saundankar, Presiding Officer.

Reference No. CGIT-2/109 of 2001

Employers in relation to the management of

THE DY. GENERAL MANAGER (HRD),
ENGINEERS INDIA LTD., LPG RECOVERY

The Dy. General Manager (HRD),
Engineers India Ltd., LPG Recovery Project,
Usar P.O. Malval, Tal. Alibag,
Raigad.

AND

THEIR WORKMEN

Mr. Sudhakar P. Sakharkar,
At Post Bandhgaon, Tal. Murud,
Janijira Dt. Raigad,
Raigad.

APPEARANCES :

For the Employer : Mr. S. V. Alva, Advocate.

For the Workmen : No Appearance.

Mumbai, Dated 15th May, 2002

AWARD

The Government of India, Ministry of Labour, by its Order No. L-29012/32/2001/IR(M), dated 1-8-2001—18-9-2001, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Engineers India Ltd. in terminating the employment of Shri Sudhakar Pandurang Sakharkar, an Ex-messenger w.e.f. 1-1-1999 is legal and justified? If not what relief the workman concerned is entitled to?”

2. Pursuant to the notices advocates Shri M. B. Anchan appeared for the workman and Shri Alva for the management Engineers India Ltd., before this tribunal. Record shows that workman though sufficient time sought did not appear nor put Statement of Claim and even till today, which indicates that workman is not interested in prosecuting the reference and therefore it will have to be disposed of and hence the order :—

ORDER

Reference stands disposed of for non-prosecution.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 28 जून, 2002

का. आ. 2444 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रवृत्त में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधन के संबद्ध निोजकों और उनके कर्मचारों के बीच, प्रमुख में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुम्बई नं. —2 के पंचाट (संदर्भ संख्या 2/62 ऑफ 1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-06-2002 को प्राप्त हुआ था।

[सं. एल. 31012/19/98-आई आर (एम)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 28th June, 2002

S.O. 24444.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/62 of 1999) of the Central Government Industrial Tribunal, Mumbai-2 as shown in the annexure in the Industrial between the employers in relation to the management of Mumbai Port Trust and their workman, which was received by the Central Government on 6-6-2002.

[No. L-31012/19/98-IR(M)]

C. GANGADHARAN, Under Secy.

2220 GI/2002—9

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

S. N. Saundankar, Presiding Officer.

Reference No. CGIT-2/62 of 1999

Employers in relation to the management of Mumbai Port Trust,

Mumbai Port Trust,
The Chairman,
Mumbai-400038.

AND :

Their Workmen.

The Secretary,
Transport and Dock Workers Union,
P. D. Mello Bhawan, Carnac Bunder,
Mumbai-400038.

APPEARANCES :

For the Employer : Mr. Umesh Nabar, Advocate.

For the Workmen : Mr. S. R. Wagh, Advocate.

Mumbai, dated 7th March, 2002

AWARD—PART-II

By the Interim Award dated 11-2-2000 my Learned Predecessor concluded that domestic inquiry held against the workman Holam and Katkar was as per the Principles of Natural Justice, however, the findings recorded by the inquiry officer were perverse and consequently he had directed the management to lead evidence to justify its action. Therefore, the point as regards the action on the part of the management remains for the consideration of this Tribunal. The case of the Transport and Dock Workers Union by Statement of Claim (Exhibit-6) in short is that Shri Chandrakant Baburao Holambe and Shri Ashok Mahadeo Katkar were employed as 'B' Category Mazdoors in the MbPT. It is alleged on 15-1-95 they both committed theft of 8 Kg. of Nickel Oxide (Worth Rs. 80) from Shed No. 12, Indira Docks and that they were apprehended by one Ahmed Hussain Surve, Security Guard No. 116 of MbPT, when they were in possession of one Rexine Bag containing the said material which they were carrying by hand jointly. The Security Guard informed the Yellow Gate Police Station and that the police in turn, arrested both the workmen. On receiving the information the management on 26-7-96 charged the workmen for failure to maintain absolute integrity and devotion to duty by committing theft in connection with its property and that by holding inquiry they were dismissed from services from 28-7-97. The workmen's contention is that in the police case Bearing No. 566/P/95 for the offence of theft as mentioned above, they were acquitted by the Metropolitan Magistrate, 16th Court, Ballard Pier, Mumbai on 4-3-97. It is contended by the union that, since the workmen were acquitted whereby the theft not proved, the action of the management in dismissing workmen from the service is unjustified and therefore the management be directed to reinstate them with full back wages and in the alternative contended that

the punishment of dismissal awarded by the management is shockingly disproportionate. Management on the other hand contended that the workmen were guilty of the theft and therefore they don't deserve to be retained in service. It is further contended that the punishment of dismissal is proportionate to the charges. Consequently prayed to dismiss the claim of workmen.

2. As stated above issue Nos. 3 and 4 framed vide (Ex.-9) are to be decided by this Tribunal on the evidence led by the parties concerned. Security Guard Mr. Surve filed his affidavit to prove the action of the management in lieu of Examination-in-Chief (Exhibit-17) and the management closed its evidence vide purshis (Exhibit-18). Workmen both Holambe and Katkar filed affidavits in lieu of Examination-in-Chief (Ex.-21 and 22) and the union closed evidence vide (Exhibit-23).

3. Management filed Written submissions (Exhibit-26) and the Union (Exhibit-24) with the copy of ruling. On perusing the record as a whole, and hearing the counsel for both the parties at length, I record my findings on the following issues, for the reasons stated below :—

Issues	Findings
3. Whether the action of the management in dismissing the two workers from services of Post is justified?	No.
4. If not, to what relief the workmen are entitled?	As per order below.

REASONS

4. Admittedly Holambe and Katkar were permanent employees and that they both were dismissed w.e.f. 28-7-1997. As stated above as per the direction in Interim Award dated 11-2-2000, management led evidence to justify its action. Security Guard Mr. Surve deposed that while performing duty at about 11.00 p.m. on 15-1-95 he saw both the workmen carrying rexin bag alternatively between 2 Indira Dock and 3 Indira Dock which he apprised the police who in turn seized that bag under panchanama containing 8 Kg. of Nickel Oxide of black colour and added that both the workmen committed theft of the said property belonging to Port Trust and that is the misconduct on the part of the workmen failing to maintain absolute integrity and devotion to duty. Both the workmen denied that they committed theft, and thereby they contended that they have not committed any misconduct and therefore their dismissal is illegal.

5. Workman Katkar by way of affidavit stated that on the material day he was on leave. He had slept near 1/2 Indira Dock under the mango tree and there the Security Guard awakened him and asked on the bag lying nearby and that he told him that, that was not belonging to him. In cross-examination, para 15 he admits place where he was found, was prohibited, if not on duty. He had no enmity with the guard, he did not complain against that guard with anybody. Another workman Holambe who deposed to the fact that he had forgotten plastic bag containing his dock entry permit and tiffin box, therefore, on the material day, he had been to docks to search his bag, which he did not find and while going back home, security guard asked him to show dock entry permit which he

could not show and therefore he was detained. In cross-examination para 14, he admits that he was not on inimical terms with the guard, he had no photo pass and that without photo pass they cannot enter the gate of the port trust. On the basis of these admissions of the workmen the Learned Counsel for the management Shri Umesh Nabar submits that presence of the workman on the material day, place and time has been proved and urged that the fact that they both made unauthorised entry itself points out that they were there as thieves and that security guard had no reason to implicate them falsely. This according to him, sufficient to prove that both the workmen committed theft of the property of port trust which act is failure to maintain absolute integrity and devotion to duty amounting to misconduct and therefore order of their dismissal is legal and justified.

6. The Learned Counsel Shri Wagh urged with force that both the workmen were prosecuted by Yellow Gate Police vide Complaint No. CC No. 566/p of 1995 in the court of the 16th Metropolitan Magistrate, Ballard Pier, Mumbai for the alleged theft committed by them and that the court had acquitted them by the Judgement dated 4-3-97. Therefore, according to him holding of inquiry subsequently by the management and giving finding on the same charges by the inquiry officer, is totally illogical and relying on the finding as proved action of the dismissal of workman by the management is consequently illegal. He submitted that the court found the entire prosecution case untenable and that the workmen accused were acquitted, not on giving benefit of doubt but on merits, therefore considering this aspect he submits that the inquiry itself is redundant.

7. Their Lordships in Maharashtra State Board of Secondary and Higher Secondary Education Vs. K. S. Gandhi and Others, 1991 (2) SCC pg. 716, para 37 observed :

"It is thus well settled law that strict rules of the Evidence Act, and the standard of proof envisaged therein do not apply to departmental proceedings or domestic tribunal. It is open to the authorities to receive and place on record all the necessary, relevant, cogent and acceptable material facts though not proved strictly in conformity with the Evidence Act. The material must be germane and relevant to the facts in issue. In grave cases like forgery, fraud, conspiracy, misappropriation etc. seldom direct evidence would be available. Only the circumstantial evidence would furnish the proof. In our considered view inference from the evidence and circumstances must be carefully distinguished from conjectures or speculation. The mind is prone to take pleasure to adapt circumstances to one another and even in straining them a little to force them to form parts of one connected whole. There must be evidence direct or circumstantial to deduce necessary inferences in proof of the facts in issue. There can be no inferences unless there are objective facts, direct or circumstantial from which to infer the other fact which it is sought to establish. In some cases the other facts can be inferred, as much

as is practical, as if they had been actually observed. In other cases the inferences do not go beyond reasonable probability. If there are no positive proved facts, oral, documentary or circumstantial from which the inferences can be made, the method of inference fails and what is left is mere speculation or conjecture. Therefore, when an inference of proof that a fact in dispute has been held established, there must be some material facts or circumstances on record from which, such an inference could be drawn. The standard of proof is not proof beyond reasonable doubt "but" the preponderance of probabilities tending to draw an inference that the fact must be more probable. Standard of proof cannot be put in a strait-jacket formula. No mathematical formula could be laid on degree of proof. The probative value could be gauged from facts and circumstances in a given case. The standard of proof is the same both in civil cases and domestic enquiries."

The Learned Counsel for the management, Mr. Nabar submits that in the domestic inquiry standard of proof is not proof beyond reasonable doubt but the preponderance of probabilities tending to draw an inference that the fact must be more probable. He submits that substantial evidence referred to above reduce necessary inference in proof of the facts in issue. He submits that the fact on the presence of both the workmen on the relevant date, time and place, and finding a plastic bag having Nickel Oxide belonging to Mumbai Port Trust itself proves both the workmen committed theft which was misconduct and therefore the action based thereon, is legal in the light of the observation referred in the above said Judgment.

8. On going through the record as a whole it is apparent criminal and departmental proceedings were based on identical set of facts viz. theft of 8 Kg. of Nickel Oxide on 15-1-95 from Dockyard. Findings recorded by the inquiry officer indicate that the charges against the workmen were sought to be proved by the security guard Surve and the employee Sawant. Relying upon the statement of Surve and Sawant, he came to the conclusion that the charges were established against the workmen. The same witnesses were examined in the criminal case but the court in consideration of the entire evidence, came to the conclusion that, the theory of prosecution was unacceptable and that both the workmen were acquitted by throwing out the whole case of the prosecution. Their Lordships in Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. and Air. 1999 SCC (L&S) 810 observed :

"The facts and evidence in departmental as well as in criminal proceedings were the same without there being any iota of difference. The distinction which is usually drawn between departmental and criminal proceedings on the basis of approach and burden of proof, would not be applicable to facts of such case". In this situation therefore where the appellant is acquitted by a judicial pronouncement when the finding that—it would be unjust, unfair and rather oppressive to

allow the findings recorded at the departmental proceedings to stand."

In the case in hand as referred supra, facts and evidence in departmental proceedings as well as criminal proceedings are the same. Therefore relying on the said decision and the circumstances, to my view, it would be unjust, unfair and rather oppressive to allow the findings recorded at the departmental proceedings to stand. In this context, action of the management in dismissing both the workmen from the service on the basis of the findings of the inquiry officer recorded on the charges, for which, they both were acquitted by the court, is in totality unjustified. Consequently both the workmen are entitled to reinstatement with full back wages. Issues are therefore answered accordingly and hence the order :—

ORDER

The action of the management of Mumbai Port Trust in dismissing Shri Chandrakant Baburao Holam and Shri Ashok Mahadev Katkar from the services of the Port Trust is unjustified.

Management is directed to reinstate both the said workmen with full back wages.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 28 जून, 2002

का. आ. 2445 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडो बर्मा पेट्रोलियम के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या 23/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-02 को प्राप्त हुआ था।

[सं. एल-30012/10/2001-आई प्रार (एम)]

सी. गंगाधरन, सदर सचिव

New Delhi, the 28th June, 2002

S.O. 2445.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Indo Burma Petroleum and their workman, which was received by the Central Government on 17-6-2002.

[No. L-30012/10/2001-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. Saxena, Presiding Officer.

Reference No. CGIT: 23/2001

Indo Burma Petroleum Co. Ltd.

AND

नई दिल्ली, 26 जून, 2002

Shri Hargovind Singh.

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute for adjudication vide Order No. L-30012/10/2001-IR(M) dated 15-5-2001 on following schedule :

SCHEDULE

"Whether the action of the management of Dy. General Manager, IBP Company Ltd., Nagpur in terminating the services of Shri Hargovind Singh, Ex. Courierman w.e.f. 15-10-1999 was legal, proper and justified? If not, what relief the said workman is entitled to and from what date?"

This reference was sent by the Ministry of Labour vide Order dated 15-5-2001. The notice was sent to the workman on several dates from 17-7-2001 to 10-9-2001. The workman submitted his Statement of Claim on 10-9-2001. The management submitted written Statement on 5-2-2002 that the workman Hargovind Singh was not employed by the Indo Burma Petroleum Company anytime so there was no question of his termination. There is no master and servant relationship between the company and the workman. The workman is therefore not an employee of the company. There is no post of courier in the company on which the workman has claimed his appointment. The workman was not paid any salary by the company. The workman was given several dates to produce evidence. The workman did not submit any document showing his employment in the company. The workman also did not submit any affidavit in support of his claim.

5-2-2002 was fixed for filing the documents. After that 31-3-2002 was fixed for filing affidavit by the workman. Neither any document was submitted by the workman nor any oral evidence was produced by him.

Today 23-5-2002 the case was called out several times. Both the parties are absent. Neither any representative of the union of the workman turned upto represent the case of the workman nor the counsel for the workman conducted the case. Shri R. R. Naidu the General Secretary of the union also did not turn upto conduct the case for the workman. The counsel for the management Paban Sahare also did not turn upto represent the management.

In the above circumstances, no evidence has been produced by the workman in support of his claim.

ORDER

The workman Har Govind Singh has not produced any evidence to show that he was employed by Indo Burma Petroleum Company Ltd., 265A, Bajaj Nagar. As there is no evidence on record in support of the claim of the workman, the workman is not entitled to any relief claimed by him.

The reference is answered accordingly

Dated : 23-5-2002.

B. G. SAXENA, Presiding Officer

का. प्रा. 2446 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट एथोरिटी आफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या 36/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-2002 को प्राप्त हुआ था।

[सं. एल. 11011/5/97-आई प्रार (एम)]

सी. गंगाधरण, प्रवर सचिव

New Delhi, the 26th June, 2002

S.O. 2446.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/98) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 17-6-2002.

[No. L-11011/5/97-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

Presiding Officer, Shri B. N. Panday.

I.D. NO. 36/98

Airports Authority Employees Union,
(Erstwhile National Airports
Authority Employees Union),
New Delhi-T-16, I.N. Colony,
New Delhi-23.

..Workman

Versus

Airports Authority of India
(Erstwhile National Airports
Authority) Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi.

..Respondent.

AWARD

The following industrial dispute has been referred to this industrial Tribunal-cum-Labour Court, for its adjudication, vide Order No. L-11011/5/97/IR(M) dated 21-1-98 of the Ministry of Labour Govt. of India:—

"Whether the demand of the union that existing disparity in the scale of pay of the Hindi translator Grade-II working in Headquarters and field officers, in New Delhi having identical duties and similar recruitment rules, w.e.f. 19-1-89 in the management of Airport Authority of India/National Airport Division be removed w.e.f. 1-1-89 is justified? If so, what relief the concerned union is entitled to?"

2. The workmen union filed claim statement praying that to remove the disparity in the pay scales of Hindi Translators Gr. II working in the field offices of the Authority w.e.f. 1-1-89 by giving the revised scale of Rs. 1730-2930 w.e.f. 1-1-89 as given to their counterparts posted in the headquarters of the Authority with all the consequential benefits, monetary and others to the Hindi Translators Gr. II.

3. The claim of the workmen Union was contested by the Management by way of filing a detailed written statement. After filing the written statement workman also filed replication.

4. On 21-5-2002 when the case was fixed for management's evidence, none on either side appeared. No evidence adduced on either side despite sufficient opportunity. Hence evidence was closed and award exparte reserved.

5. In these circumstances it is held that the parties are not interested to proceed with the dispute. Hence no dispute Award is passed. Parties shall bear their own costs. Award is given accordingly.
10th June, 2002.

BADRI NIWAS PANDEY, Presiding Officer

नई दिल्ली, 28 जून, 2002

क्र. भा. 2447 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिबलो एन्टरप्राइजेज के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधीकरण मुद्दे-1 के पंचाट (संदर्भ संख्या 39/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-06-02 को प्राप्त हुआ था।

[सं. एल-29011/23/2000-आई आर (एम)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th June, 2002

S.O. 2447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai-1 as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Timblo Enterprises and their workman, which was received by the Central Government on 17-6-2002.

[No. L-29011/23/2000-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice S. C. Pandey, Presiding Officer.

Reference No. CGIT-39 of 2000

PARTIES :

Employers in relation to the management of
M/s. Timblo Enterprises

AND

Their workmen.

APPEARANCES :

For the Management : Mr. M. S. Bandodkar, Advocate.

For the Workmen : No appearance.

State : Goa.

Mumbai, dated this 30th day of May, 2002

AWARD

1. This is a reference under Section 10(1)(d) read with sub-section 2A thereof of the Industrial Disputes Act, 1947 (hereafter the 'Act'). The Central Government has referred the matter for adjudication to this Tribunal in the following terms :

"Whether the action of the management of M/s. Timblo Enterprises, Goa in terminating the services of 23 workmen working at their Dignem mines w.e.f. 8-2-99 is legal and justified? If not, to what relief the workmen are entitled for?"

2. It appears from application filed on behalf of the employer that on 10 July, 1999 there was settlement arrived at between all the workmen involved and the employer. In the application it alleged that there is settlement under Section 18(1) of the Act read with Section 2(P) thereof. Instead of termination all the workmen have accepted the Voluntary Retirement Scheme as per terms of settlement. The workmen represented by the union did not appear before this Tribunal. However a copy of the Award dated 19-3-1999 passed by Shri S. N. Saundankar, Presiding Officer, CGIT No. 2, Mumbai in Reference No. CGIT-2/41 of 2000 is placed on record in the connected Reference No. CGIT-29 of 2000 regarding the settlement between same employer and other workman. It appears to this Tribunal, since the dispute was already settled prior to making reference, the union did not appear.

3. In view of the matter, it is held that reference did not survive. Accordingly the reference is answered by saying that this reference does not survive as there is no subsisting dispute between the parties.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.आ. 2448 : औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिम्ब्लो एन्टरप्राइजेज के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई-1 के पंचाट (संदर्भ संख्या 29/2000) को प्रकाशित करता है, जो केन्द्रीय सरकार को 17-6-02 को प्राप्त हुआ था।

[सं. एल-29011/59/99-आईआर (एम)]

सो. गंगाधरण, अवर सचिव

New Delhi, the 28th June, 2002

S.O. 2448.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai-1 as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Timblo Enterprises and their workman, which was received by the Central Government on 17-6-2002.

[No. L-29011/59/99-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice S. C. Pandey, Presiding Officer.

Reference No. CGIT-29 of 2000

PARTIES :

Employers in relation to the management of
M/s. Timblo Enterprises

AND

Their Workmen.

APPEARANCES :

For the management : Shri Bhandodkar, Advocate.
For the workmen : No appearance.
Statae : Goa.

Mumbai, dated this the 30th day of May, 2002

AWARD

1. This is a reference under Section 10(1)(d) read with Sub-Section 2(A) thereof of the Industrial Disputes Act, 1947 (henceforth the 'Act'). The Central Government has referred the matter for adjudication to this Tribunal in the following terms :

"Whether the action of the management of M/s. Timblo Enterprises, Goa in not discussing the charter of demands dated 2-12-1997 raised by Goa Mining Labour Welfare Union, Goa, is legal and justified?

If not, to what relief the workman are entitled?"

2. In the connected Reference No. CGIT-30 of 2000, this Tribunal has reached the conclusion that the reference need not be answered as no dispute survives. It is not necessary to repeat all for the reasons given in that case. The union has shown no interest in the case presumably for the same reasons as indicated in the Award passed today in Reference No. CGIT-39 of 2000. The reasons given in the aforesaid award dated 30-5-2002 are adopted in this Award. For all these reasons the reference is disposed of by saying that reference does not survive in view of subsequent settlement between the parties as mentioned in Award given today in Reference No. CGIT-39 of 2000 (ibid).

3. Accordingly it is held that the reference does not survive as there is no dispute to be adjudicated between the parties.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.आ. 2449—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेम कार्पो. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 115/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-02 को प्राप्त हुआ था।

[सं. एल-29012/64/96-आईआर (एम)]

सो. गंगाधरण, अवर सचिव

New Delhi, the 28th June, 2002

S.O. 2449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 115/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Gem Corpn. Ltd. and their workman, which was received by the Central Government on 17-6-2002.

[No. L-29012/64/96-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch).
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. Industrial Dispute Case No. 115/2001

Date of conclusion of hearing—17th May, 2002

Date of Passing Award—4th June, 2002

BETWEEN

The Management of the Manager,
(Finance and Administration), GEM
Corporation of Orissa Ltd.,
Regd. Office D-20, B.J.B. Nagar,
Bhubaneswar. ... 1st Party-Management.

AND

Their Workmen, Shri Surjakanta
Mohanty, At. Shilandi, P.O. Ibrisingh,
Via. Tiran, District Jagatsinghpur
(Orissa). ... 2nd Party-Workman.

APPEARANCES :

Shri B. C. Bastia, Advocate : For the 1st Party-
Management.

Shri Laxmi Kanta Choudhury, Advocate : For the
2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-29012/64/96-IR (Misc.), dated 13-1-1997 :—

“Whether the action of the Management of GEM Corporation of Orissa Ltd. in terminating the services of Shri Surjakant Mohanty even after completion of more than six years continuous service is justified? If not, to what relief the workman is entitled?”

2. The Parties to this dispute are the Manager (Finance and Administration), GEM Corporation of Orissa Limited (hereinafter called as the 1st Party-Management) and Shri Surjakant Mohanti, (hereinafter called as the 2nd Party).

3. The case of the 2nd Party-Workman as pleaded in the Claim Statement runs thus :—

He was working under the 1st Party-Management in the year 1989 in different posts. Lastly, he was working as Plant Operator in Jilingdhar Ruby Mines in the District of Kalahandi. His service was terminated illegally with effect from 1-3-1996 on some false and fabricated allegations. His grievance is that he was working in a post for which he requested the authorities to provide some facilities like proper salary insurance and First Aid Certificate. The 1st Party-Management did not comply his requests but made some fabricated allegations against him. He was brought by the local police at the instance of the 1st Party-Management and in presence of the representative of the Management the police compelled him to write on a paper that the dispute between Jogi Nayak and Lingaraj Ranbir was compromised and they are going home taking their dues. His signature was forcibly taken on some vouchers. Nothing was paid to him. According to the 2nd Party, his termination is illegal. He raised the dispute, reconciliation failed and the present reference has been made. In the Claim Statement, the 2nd Party has prayed to allow him to work regularly in the post in which he was working by the time his service was terminated i.e. from 1-3-96

and to provide him proper salary, supply of insurance certificate and First Aid Certificate and with full back wages.

4. The 1st Party-Management has also filed their Written Statement. They have taken the stand that, this reference is not maintainable because the services of the 2nd Party-Workman has not been terminated. According to the 1st Party-management the 2nd Party has voluntarily left the job. Further case of the 1st Party-Management is that the 2nd Party-Workman was initially appointed as Watchman on daily wage basis and subsequently he was absorbed as Trainee Plant Operator. During his training period he was indulged in various indisciplined and nefarious activities. Verbal warning was issued to him but no improvement was found. It is further pleaded that on 19-1-1996 the 2nd Party along with some of his colleagues forcibly took the Company's Excavator. When he was asked, he threatened the officers. Charge was framed against him, but it could not be served as he refused. Thereafter he left the place.

4. On the above pleadings of the parties, the following Issues have been settled.

1. Whether the action of the Management of GEM Corporation of Orissa Limited in terminating the services of Shri Surjakant Mohanty even after completion of more than six years continuous service is justified?

2. If not, to what relief the workman is entitled?

5. The 2nd Party has examined himself as Workman Witness No. 1 and has exhibited some documents. The 1st Party-Management has examined two witnesses in support of their case.

FINDINGS.**ISSUE NO. 1**

6. Mr. Bastia, learned Counsel appearing on behalf of the 1st Party-Management has submitted that, when there is no termination of services of the 2nd Party, there is no scope for this Tribunal to answer whether the action of the 1st Party-Management in terminating the services of the 2nd Party is justified or not? According to Mr. Bastia, the 2nd Party was a trainee as admitted by him in his Claim Statement and when his performance was found unsatisfactory he was warned. As no improvement was found, charge sheet was framed against him and he avoided to receive the charge and thereafter he voluntarily left the job. So, in that case, it can not be said that, the services of the 2nd Party has been terminated. On the other hand, it has been submitted on behalf of the 2nd Party that, he was forced by the police at the instance of the 1st Party-Management to leave the place and that would suggest that, his services was terminated. I have perused both the oral and documentary evidence of the parties. The 2nd Party in his Claim Statement has admitted that he was a Trainee Operator. He has also admitted in his Claim Statement that, he left the area on 2-3-1996 and went to his home town. No documents have been filed on behalf of the 2nd Party to convince the Tribunal that his service has been terminated

with effect from 1-3-1996. So, I agree with Mr. Bastia, the learned Counsel appearing on behalf of the 1st Party-Management that, the question of answering the reference as to whether the termination is legal or illegal does not arise, when no order of termination has been passed against the 2nd Party. The stand taken by the 1st Party-Management in their Written Statement has been supported by the oral evidence adduced by both the witnesses of the 1st Party-Management. Neither the Claim Statement nor the oral evidence of the 2nd Party-Workman has disclosed that, his service was terminated with effect from 1-3-1996. As I have already observed that the 2nd Party has pleaded in the Claim Statement that he left the area from 2-3-1996 and went to his native place that would suggest that, he voluntarily left the job. So, there is no case that the service of the 2nd Party-Workman has been terminated by the 1st Party-Management. When there is no termination there is no scope for this Tribunal to answer whether the termination is illegal or not? This Issue is answered accordingly.

ISSUE NO. II

7. As per my findings given in respect of Issue No. I, the 2nd Party-Workman is not entitled for any relief. The question of relief would come if he joins and take effective steps for regularizing the period of his absence. Unless that is done, the Tribunal has got no jurisdiction to pass any order or any relief.

8. Reference is answered accordingly.
Dictated and Corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.प्र. 2450 : औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.जी.आई. एयरपोर्ट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संवर्ध संख्या 61/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-6-2002 को प्राप्त हुआ था।

[सं. एल-11012/10/88-डी-II (बी)]
सी. गंगाधरान, प्रवर सचिव

New Delhi, the 28th June, 2002

S.O. 2450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 61/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the annexure in the Industrial Dispute between the employers in relation to the management of IGI Airport and their workman, which was received by the Central Government on 21-6-2002.

[No. E-11012/10/88-D-II(B)]
C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT :

Rudresh Kumar, Presiding Officer.

I.D. No. 61/2002

(Delhi No. 3/89)

Ref. No. L-11012/10/88-D. II(B)/D. III(B)

Dated : 21-12-1988

BETWEEN

Vijay Kumar,
House No. J-75,
Ahata Thakur Dass,
New Rohtak Road,
Near Sarai Rohilla Station,
New Delhi-5.

AND

General Manager (Pers.),
Old Engineering Building,
IGI Airport,
Terminal-IB,
New Delhi-110037.

AWARD

By order No. L-11012/10/88-D. II(B)/D. III(B) dated 21-12-88, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub section (1) and Section 2(A) of I.D. Act, 1947 (14 of 1947) referred this industrial dispute between Vijay Kumar, House No. J-75, Ahata Thakur Dass, New Rohtak Road, New Delhi and General Manager (Pers.) Old Engineering Building, IGI Airport, Terminal-IB, New Delhi for adjudication to CGIT-cum-Labour Court, New Delhi. Later, the Central Government in the Ministry of Labour by order No. Z-200025/54/2001-CLS-II dated 19-4-2002 transferred the case to this tribunal for adjudication.

The reference under adjudication is as under :

"Whether the action of the Management of Indian Airlines, New Delhi in terminating the services of Vijay Kumar, sweeper, vide their order dated 3-7-85 is justified. If not, what relief the workman is entitled to?"

2. The workman, Vijay Kumar, appointed as Sweeper in the pay scale of Rs. 250-5-280-10-360 with usual allowances etc. vide letter No. DAD/A-3/11457 dated 22-6-84 and was directed to report for duty vide letter No. DAD/A/STF/11526 dated 23-4-84. He was served with a letter No. PLM/PS/Estt./E-101841 dated 5-2-84 of remaining absent for 18 days in the year 1984. His probation period, initially, for six months was extended from 4-1-85 to 3-4-85. By another letter No. PLM/PS/Estt./E/10/436 dated 13-6-85, he was informed of having absented unauthorisedly during the period from 4-1-85 to 3-4-85 and his probation period was again extended 4-4-85 to 3-7-85. A letter No. LM/PS : Estt. : 3711 dated 20-5-85 was also served on him by which he was charged of having misconducted as per the standing order "absent without leave or over staying sanctioned leave". It is stated that all the above such letters including cautioning him without any further proper opportunity of hearing were illegal. The management terminated his services by letter No. PLM/PS/Estt./5340 dated 3-7-85. After sending a demand notice the workman raised a industrial dispute impugning the termination order dated 3-7-85 which is under adjudication on reference.

3. The management contested the allegations and justified its action of termination of the services of the workman w.e.f. 3-7-85. Replying to the version of the workman of not having been provided details of the period he remained absent. It is pleaded that all these facts were in his knowledge for how many days he attended the duty as he was provided with the leave card and gate punching card. However, he remained absent from 1st to 7th November 1985, 6th to 20th, 22nd, 24th, 27th and 30th December, 1984. His probation was

extended from 4-1-85 to 3-4-85 and was conveyed to him by letter No. PLM/PS/Estt./E-10/841 dated 5-2-85. It is further stated that the workman remained absent during the extend period of probation i.e. 19 days in January, 1985 and 19 days in February, 1985 and 21 days in March, 1985 total 59 days. According to management extra leniency was shown in his case expecting improvement in his attendance. Instead of termination of his services on 4-4-85 his probation was extended for further period of 3 months w.e.f. 4-4-85 to 3-7-85. By letter dated 20-5-85 he was cautioned to show improvement in his attendance. Unfortunately, the workman instead of showing his improvement in attendance during the extended period, he chose to remain absent unauthorisedly for 12 days in April, 1985, 14 days in May and 13 days in June, 1985. Thus, finally his probation period was determined on 3-7-1985.

4. The main submissions on behalf of the workman are : that on completion of six months services on probation, he got automatically confirmed against the post of Sweeper and so his services could not have been terminated treating him a probationer; and that he was no longer probationer after confirmation and thus, the extension of probation were camouflage and an arbitrary act of the management.

5. Two main issues arise for determination; firstly; whether the workman should be treated confirmed after expiry of six months as his probation was extended after expiry of the probation period; and further, whether his services could be terminated treating him as a probationer? In this context, the legality of the order of termination on ground of erratic and unauthorised absence also requires consideration.

6. The initial appointment of the workman was for a period of six months only. This letter does not indicate that the period of probation could be extended. He was appointed on 4-7-84 and so, as per order he should have been treated on probation till 3-1-85. The management failed to produce any record that the decision to extend probation was taken before expiry of the probation period. He was communicated of first extension of probation by letter dated 5-2-85 much after expiry of probation period on 3-1-85. It is not shown, whether the rules permitted extension of probation of the workman. The management has not filed rules or standing orders showing power to extend probation period. Another extension was granted from 4-4-85 to 3-7-85 and communicated to him by letter dated 13-6-85. In this extension also, there is no mention as under which provision the extension was granted. In both the letters dated 5-2-85 and 13-6-85 it is simply mentioned while processing the case for confirmation in existing scale the competent Authority decided to extend your probation period. The question arise as when the competent authority decided it and whether the rules or standing order of Indian Airlines permitted him to do so, once the probation period of six months was over. The workman relied on 1986 Supreme Court cases (L & S) 421, Om Prakash Maurya Vs. U.P. State Cooperative Sugar Factories Federation, Lucknow and others. In this case, Hon'ble Supreme Court held that a probationer continuing even after expiry of maximum period of extension of probation permissible under rules without being confirmed would be deemed to have been confirmed.

7. The probation period of six months from the date of initial appointment expired on 3-1-85 and workman continued thereafter on the same post. His probation was extended by a letter dated 5-2-85. As per the content of appointment letter it cannot be informed that extension was permissible, so the maximum period of probation can be taken to be six months unless power to extend probation is permissible under rules/standing orders. No rules or standing orders have been held to show that the probation period could be extended. The ratio of the said case law is applicable and the workman should be treated confirmed on expiry of probation period i.e. w.e.f. 4-1-85. Once he was confirmed/treated confirmed, there was no logic in extending period by letter dated 5-2-85 or 13-6-85. The Punjab & Haryana High Court in Ranjeet Singh Vs. Presiding Officer, College Tribunal, reported in 1989(4) SLR page 54, held that on appointment against a permanent post there would be automatic confirmation after expiry of maximum period of probation provided under the rules. As said earlier, the management of Indian Airlines has not submitted any document whether the probation period could be extended and if so, what was its maximum limit. Being so, only inference can be drawn that the period of maximum probation was only six months, and on expiry of this date, the workman should have been treated confirmed.

8. Viewed so, the workman was no longer a probationer as he got automatically confirmed w.e.f. 4-1-1985. Subsequent extended period of probation in absence of rules/standing orders were of no consequence. Once confirmed as sweeper, it was obligatory to the management to initiate action as per standing orders treating unauthorised absence as misconduct. The management relied on case law P. N. Verma Vs. Sanjay Gandhi Post Graduate Institute, Lucknow reported in 2002-1-LLJ page 690. This decision relates to a probationer. The tests prescribed by the Apex Court could have approved only, had the workman been a probationer. In view of the fact that the workman was automatically confirmed, he was no longer probationer and this case law does not apply in his case.

9. The management had issued show cause notice on 20-5-85 specifying charges of misconduct but did not process it further. There is no evidence to show as how after the issue of the show cause notice, the workman was not removed from service after due enquiry, rather a short course was considered necessary to terminate his services treating him on probation. By issuing a charge sheet, the management treated absent from duty as misconduct. It was not open to adopt a different course and to state that order terminating the services was simpliciter one cannot be accepted. The management once treated absence from duty as misconduct, subsequent termination could have followed on result of the enquiry. The order of termination w.e.f. 4-7-85 is illegal.

10. Coming to the facts whether the workman is entitled to full back wages, delayed action in raising this industrial dispute must be taken into consideration. Termination order was passed in July 1985 out dispute by way of reference in December 1988 i.e. more than three years after ward. Further, during the period of service for one year, the workman admitted to be absent for 118 days which reflects on his sincerity in performing duties. Delay in disposal of this dispute cannot be attributed to management alone. Hence, in above backdrop, the workman is not entitled to full back wages, but 50 per cent of the back wages.

11. Accordingly, the action of the management of Indian Airlines in terminating the services of the workman, Vijay Kumar w.e.f. 4-7-85 is not legal and justified. The workman is entitlement to reinstatement with 50 per cent back wages.

12. Award as above.

LUCKNOW,

14-6-2002.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.आ. 2451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बोलाती ओरस मॉर्ग्स के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 420/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-6-2002 को प्राप्त हुआ था।

[सं. एल-26011/1/2001-आई आर (एम)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 28th June, 2002

S.O. 2451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 420/2001) of the Central Government Industrial Tribunal-cum-Labour Court Bhubaneswar as shown in the

annexure, in the Industrial Dispute between the employers in relation to the management of Bolani Ores Mines and their workman, which was received by the Central Government on 21-6-2002.

[No. L-26011/1/2001-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour,
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO.
420/2001

Date of conclusion of hearing—23rd May,
2002

Date of Passing Award—17th June, 2002

BETWEEN :

The Management of the General,
Manager, Bolani Ores Mines.
RMD, SAIL, P.O. Bolani.

Distt. Keonjhar. . . 1st Party-Management.

AND

Their Workmen represented through,
The General Secretary, Barbil Workers,
Union, P.O. Barbil, Keonjhar-758035.
. . . 2nd Party-Union.

APPEARANCES :

None.—For the 1st Party-Management.

None.—For the 2nd Party-Union.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-26011/1/2001-IR(M), dated 7-6-2001 :—

“Whether the action of the Management of Bolani Ores Mines, RMD, SAIL, in terminating the services of Shri Somu Charan Munda, Shri Santosh Munda and Shri Anil Kumar

Honaga without any notice and compliance of provisions of Industrial Disputes Act, 1947 is justified? If not, what relief the workmen are entitled to?”

2. The 2nd Party has filed the Claim Statement. The 2nd Party, namely the General Secretary, Barbil Workers Union is representing the three workmen, namely Shri Somu Charan Munda, Shri Santosh Munda and Shri Anil Kumar Honaga. The case of the 2nd Party is that the above workmen were engaged by the 1st Party-Management to plant the trees and watering on regular basis and guarding the plants from the cattle. The 1st Party-Management was not paying their wages equal to the wages being paid to the un-skilled category of workmen in the same industry. So, they made representation to the 1st Party-Management. On this, the 1st Party-Management being annoyed terminated their services with effect from 21-3-1997 without complying the provisions of the Industrial Disputes Act. According to the 2nd Party, the termination is illegal. Hence, they raised the dispute, reconciliation failed and the present reference has been made. They have prayed for reinstatement with full back wages.

3. The 1st Party-Management has filed their Written Statement. In their Written Statement they have taken the stand that the reference is not maintainable and there was no employer and employee relationship between the parties. Further case of the 1st Party-Management is that the company undertakes the planting of trees in the leasehold areas from time to time and the said work is assigned to the villagers nearby residing and this assignment is periodic and comes to an end on the completion of planting. The villagers amongst themselves, select a few hands to whom the main responsibility is assigned and those selected persons through other villagers get the work done. Their further care is that, in absence of employer and employee relationship, the question of termination of services does not arise.

4. On the above pleadings of the parties, the following Issues have been settled :—

1. Whether the action of the Management of Bolani Ores Mines, RMD SAIL, in terminating the services of Shri Somu Charan Munda, Shri Santosh Munda and Shri Anil Kumar Honaga without any notice and

compliance of provisions of Industrial Disputes Act, 1947 is justified?

2. If not, what relief the workmen are entitled to?

5. The Issues were settled on 5-4-2002. The representative of the 1st Party-Management was present on that date, but none appears on behalf of the 2nd Party-Union. The case was adjourned on 23-5-2002 for evidence of the parties. But on that date both the parties were remained absent.

FINDINGS

ISSUES NO. I, II & III :

6. The dispute has been raised at the instigation of the 2nd Party. So, the initial burden lies on the 2nd Party to prove his case by adducing oral or documentary evidence. The role of the 1st Party-Management would be to disprove the case of the 2nd Party. In this case the 2nd Party has not adduced any oral or documentary evidence in support of their case that they were engaged and their services have been terminated illegally. So, in that case it cannot be said that the action of the 1st Party-Management in terminating the services of the three workmen, namely Shri Somu Charan Munda, Shri Santosh Munda and Shri Anil Kumar Honaga, without any notice or compliance of the provisions of the Industrial Disputes Act is unjustified. In that case, the workmen of the 2nd Party are also not entitled for any relief.

7. Reference is answered accordingly.

Dictated and corrected by me.

S K. DHAL, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.मा. 2452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाल्मिया इंटरनेशनल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट (संदर्भ संख्या 41/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-6-02 को प्राप्त हुआ था।

[सं. एल-29012/44/2001-आईआर (एम)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th June, 2002

S.O. 2452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2001) of the Central

Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Dalmia International and their workman, which was received by the Central Government on 24-6-2002.

[No. L-29012/44/2001-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 18th June 2002

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LLB, Presiding Officer.

CGIT cum-Labour Court, Bangalore

C. R. No. 41/2001

I PARTY:

Shri A.R.M. Ismail,
President,
District Mining and Mineral
Transport Workers Union,
No. 11, K.C. Road,
Bellary.

II PARTY

M/s. Dalmia International,
Iron Ore Division,
Post Box No. 63,
N.C. Colony,
Hospet-583201.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (2A) of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-29012/44/2001-IR(M) dated 13 June, 2001 for adjudication on the following schedule.

SCHEDULE

"Whether the action of the management of M/s. Dalmia International is justified in directing the departmental workmen only to sign an undertaking and report for duty through the continuance of strike has been prohibited by the Govt. of India w.e.f. 25-3-1999? If not, what relief the workman is entitled to?"

2. The first party workman is working with the management. The first party has challenged the direction to the departmental workmen only to sign an undertaking and report for duty though the continuance of Strike has been prohibited by the Govt. of India w.e.f. 25-3-1999 and therefore, Industrial Dispute is raised.

3. When the reference was received, notices were sent to the parties.

4. It is seen from the records that from the beginning the first party is not present. Vakalat is filed by the first party and thereafter no Claim Statement is filed. In number of hearing dates the workman remained absent. It appears that the workman is not interested in this dispute and no purpose will be served if the matter is kept pending. Accordingly I proceed to pass the following Order.

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 18th June 2002).

V N KULKARNI, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.मा. 2453.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेसिया मिस्त्री एजेंसीज प्रा. लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण मुंबई नं.-I के पंचाट (संदर्भ संख्या 2/95) को प्रका-शित करती है, जो केन्द्रीय सरकार को 18-6-2002 को प्राप्त हुआ था।

[सं. एल-31012/6/94-आई आर (एम)]

सी. गंगाधरन, सचिव

New, Delhi, the 28th June, 2002

S.O. 2453.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/95) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai, No. I as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Jesia Mistry Agencies (P) Ltd. and their workman, which was received by the Central Government on 18-06-2002.

[No. L-31012/6/94-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice S. C. Pandey, Presiding Officer.

REFERENCE NO. CGIT-1/2 OF 1995

PARTIES :

Employers in relation to the Management of M/s. Jesia Mistry Agencies Pvt.

AND

Their workman Shri Vijay L. Shirwadkar.

APPEARANCES :

For the Management : Shri Makandar, Advocate.

For the Workman : Shri S. R. Wagh, Advocate.

STATE : Maharashtra

Mumbai dated the 5th day of June, 2002

AWARD

1. The Central Government, in exercise of its power under clause (d) of sub-section 1 and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short) has referred the dispute between the management of M/s. Jesia Mistry Agencies Pvt. Ltd. and its workmen for adjudication by this Tribunal in the following terms :

"Whether the action of the employer M/s. Jesia Mistry Agencies Pvt. Ltd., Bombay in dismissing the services of workman Shri Vijay L. Shirwadkar, dock clerk with effect from 22-2-1993, is justified? If not to what relief the workman is entitled?"

2. M/s. Jesia Mistry Agencies Private Ltd., (hence forth the employer) had employed Shri Vijay Shirwadkar as Senior Dock Clerk. He was served with three charge sheets one charge sheet dated 21st November, 1990 and two charge sheets dated 31st October, 1991. These charge sheets were annexed as exhibit A, B and C to the written statement filed by the employer. The charge sheet dated 21st November, 1990

(Exhibit A) was in respect of refusal to carry out custom clearance of consignment of S. S. Vishwa Pankaj and Hindusthan Zinc Ltd. The charge sheet dated 31-10-1999 (Exhibit B) related to non-clearance of consignment of Rashtrya Chemical Fertilizers by refusing to go to house No. A of Indira Docks for clearance and making false excuses for not that doing the work. The other charge sheet dated 31st October, 1991 (Annexure C) was also in respect of clearance of consignments in respect of two packages and accessories of for Gas based combined cycle power project main plant equipment and auxiliaries of State of Orissa. In all the three charge sheets all the ingredients of misconduct amounted to (1) wilful in subordination and disobedience of reasonably valid orders (2) acts of indiscipline (3) gross negligence of work.

3. The workman contested the three charge sheet and employer conducted three enquires each in respect of every charge sheets mentioned alone. In all the three enquires the enquiry officers formed the workman guilty of committing the misconduct. The disciplinary authority waited till all the enquiry reports were received in all three enquiries.

4. The reports were received by the month of January, 1993. The three enquiry reports were sent to the workman on 5-2-1993, with a covering letter dated 3-2-1993 (Annexure D). The object was to give an opportunity to workman to make a representation to disciplinary authority. The workman did not reply. Ultimately on or due dated 12th February, 1993 an order an order was passed dismissing the workman on the basis of findings on charge sheet dated 21-11-1990 and the two charge sheets dated 31st October, 1990.

5. Thereafter the workman raised Industrial Dispute and the Central Government has referred the matter to this Tribunal now for adjudication.

6. Shri R. S. Verma my predecessor has passed a part Award on 3-4-1997. The operative part of the award read as follows :

"In view of what I stated above the findings with regard to charge sheet Ex-A and charge sheet Ex-B are proved to the extent stated already. However, the charge under charge sheet Ex-C has not been proved. This matter shall be posted for hearing the parties on the question of the justness and propriety of the punishment imposed upon the workman."

It appears, that the charges contended in Ex-A and Ex-B to the WS of the employer were held to be proved. However it was found the charges in respect of charge sheet No. C, were not held to be proved in the domestic enquiry. The case was however put up arguments on the question of adequacy of the punishment on the basis of the findings recorded in the part award.

7. However the employer filed an application for review of the part award dated 3-4-1997, on 1-1-1998. The following order sheet was recorded :

"Shri Makandar for management. Shri S. R. Wagh for workman. The matter comes up on the application for review of Award Part-I with alternative prayer to lead evidence to prove charge No. 3, I have heard the learned counsel for the parties and I am of the opinion that the management should be afforded a due opportunity to prove charge No. 3, by leading evidence before the Tribunal. The management may file affidavit of it witnesses and documents, if any within 3 weeks with advance copies to learned counsel for the workman. The witness be kept present for cross-examination on 2-3-1998. In case any witness is required to be summoned, due steps be taken timely. The workman shall be entitled to lead his evidence in rebuttal after the management completes its evidence. Put up on 2-3-1998."

8. Thus the doors for proving the third charge were opened. The employer filed on affidavit and led evidence. So also the workman. The evidence of the parties could be completed on 7-2-2002. Thereafter the case was put for passing a final award on merits as well on the question of punishment in any contingency.

9. The charge sheet No. C reads as under :

"That on 28th October, 1991 you were entrusted with the clearance of certain consignments in respect of the following Bills of Entry.

Job No. JMA/IC/NTPC/DAD/31

2 Packages—containing Main Plant Equipment for Gas Based Combined Cycle Power Project—Auxiliaries/accessories ex s.s. STATE OF ORISSA— B/L No. 9, dt. 22-8-1991—

IGM No. 1731/Item No. 66,

The above work was given to you by Mr. S. C. Choughule, Asst. Port Officer with clear instructions that the clearance of these consignments has to be done urgently. After you went through these aforesaid Documents, you refused to handle the aforesaid work given to you on the lame excuse that this work was handled by somebody else during the strike period. As a consequence of your refusal of the work given to you, which you have been carrying on in the past and in the usual course of business of the company, the consignments could not be cleared for our esteemed clients on time. There is no reason why you could not handle or carry; out the work which might have been partly handled by other persons in the company during the period of strike from 19-9-1991 to 21-10-1991 in which you participated. Your refusal to carry out the work entrusted to; you by Mr. S. C. Choughule shows your revengeful attitude towards your superiors as they carried out the work somehow during the period of strike.

The above act of yours is highly prejudicial to the interests of the company and also amounts to gross misconduct under the standing orders applicable to you as under :

1. Wilful insubordination and disobedience of lawful and reasonable orders of your superiors.
2. Commission of an act subversive of discipline and good behaviour on the premises of the establishment. You are directed to explain in writing within 48 hours from the receipt hereof as to why strict disciplinary action should not be taken against you. You are hereby suspended pending enquiry into the above mentioned charges. You will be paid subsistence allowance during the period of suspension pending enquiry as per the provisions of standing orders provided you do not take up other employment elsewhere during the period of suspension pending enquiry."

10. This Tribunal is now required to give finding of the employer had proved the charge in respect of the above charge sheet. The employer has filed the affidavits : (i) Shri S. C. Choughule, (ii) C. J. Fernandes for proving the charges as per charge sheet dated 31-10-91, (Exhibit ibid). The employer further examined one more witness to show that the workman was gainfully employed. His name Prabhakar Shetty Director of Chakreshwar Shipping Company. Shirwadkar filed his affidavit in rebuttal on merits as well as on the question of his gainful employment and he was cross-examined.

11. After going through the affidavit and cross examination of two main witnesses of the company and affidavit of Shri Shirwadkar, this Tribunal is of the opinion that the charge framed against the workman is proved to the effect 28-10-91, he refused carry out job which is subject matter Exhibit C (ibid). The defence of Shirwadkar was that he was victimized because he was an office bearer of Transport & Dock Workers Union and had actively supported the strike in the company between 19-9-91 to 21-10-91. The learned counsel for workman had argued that this Tribunal should not accept the tainted testimony of S. C. Choughule as he had not given a report in writing regarding the fact of refusal on the part of the workman. It was also argued that charge was tainted because even earlier on 25-10-91, nothing was done by one Mr. Baber who handling customs clearance case. Similarly another workman Mr. Salvi did not do. It is argued that witness admitted that Exhibit M9 did not mention that work was allotted to the workman Shirwadkar. I do not see any merit in this argument. The diary shows that it mentions the names of the persons to whom the work is allotted. It does not mentioned anywhere that the workman refused the work. If victimization was the idea then the entry could have been made subsequently. The explanation of Mr. Choughule may not be true when he say he was too busy. The core of the

evidence of Mr. Choughule is not shaken. On the other hand there is corroboration to the testimony of Choughule by Mr. Fernandes. The workman had told Mr. Fernandes on 29-10-91, that he shall not do the job because it was done by somebody else during the strike. The witness was on leave on 28-10-91. The witness was not shaken in cross examination on this part of testimony. This is not one of these cases where the workman had become an eyesore to the employer and therefore, it required remove him by an under hand tactic. On the other hand at least one charge sheet dated 21st November 1990, was framed against the workman as per Exhibit A much prior to other strike. It speaks about the conduct of the workman. On the finding previously recorded by Justice R. S. Verma. On 3-4-97, in the part-1 award the charges on this order sheet have been proved. The affidavit of the workman read with the cross examination does not inspire any confidence. His attitude is apparent. It is that of a trade union leader who would like to shake the management of employer. He admits the strike was called off. The dispute of retrenchment was to be referred for adjudication. He also says that he had signed the settlement. The seven employees had by passed over the union and resolved the dispute directly with the employer after receiving a hefty seen. The adjudication was not necessary. He further admitted that other active workers who involved themselves in the strike were not victimized. Four persons had done work during strike and refused to join it. The work as mentioned Annexure C was done during the strike. It appears that this workman bore a grudge against them. Having considered every aspect of the matter and bearing the question of burden proof in the mind, this Tribunal holds that the witness of the employer are reliable and they proved the charges mentioned in charge sheet dated 21-10-1991 [Exhibit (ibid)].

12. Looking to fact that all charges against the workman mentioned in the two charge sheets (exhibit A and B ibid) were held to be proved during the course of enquiry in part-1 award dated 3-4-1997 and the charges mentioned in the charge sheet (Exhibit ibid) dated 31-10-1990 have been proved as per finding recorded herein before this Tribunal comes to the conclusion that sentence awarded to the workman does not call for any interference in exercise of powers under Section 11A of the Act.

13. The result of the aforesaid discussion is that the reference is answered by holding in favour of the employer and against the workman to effect that employer M/s. Jesia Mistry Agencies was justified in dismissing the workman Vijay I. Shirwadkar from 22-2-93. The workman is not entitled to any relief from this Tribunal. Accordingly this final award is made.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.प्रा. 2454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एयरलाइंस के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 72/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-02 को प्राप्त हुआ था।

[सं. एल-11012/23/87-डी-II (डी)]

सी. गंगाधरण, अव्वर सचिव

New Delhi, the 28th June, 2002

S.O. 2454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 72/2002) of the Central Government Industrial Tribunal-cum-Labour Court Lucknow as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines

and their workman, which was received by the Central Government on 18-6-2002.

[No. L-11012/23/87-D.II(B)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT :

Rudresh Kumar, Presiding Officer

I.D. No. 72/2002 (Delhi No. 75/88)

Ref. No. L-11012/23/87-D.II(B) dated 21-7-1988

BETWEEN

Laxman Singh, C/o Sh. S.N. Gupta, Chamber No. 517, Western Wing, Tis Hazari, New Court, New Delhi.

AND

General Manager (Pers.) Old Engineering Building, IGI Airport, Terminal-IB, New Delhi-110037.

AWARD

By order No. L-11012/23/87-D.II(B) dated 21-7-1988, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) and Section 2(A) of I.D. Act, 1947 (14 of 1947) referred this industrial dispute between Laxman Singh, C/o S. N. Gupta, Chamber No. 517, Western Wing, Tis Hazari, New Court, New Delhi and the General Manager (Pers.) Old Engineering Building, IGI Airport, Terminal-IB, New Delhi for adjudication to CGIT-cum-Labour Court, New Delhi. Later, the Central Government in the Ministry of Labour by order No. Z-200025/54/2001-CLS-II dated 19-4-2002 transferred the case to this Tribunal for adjudication.

The reference under adjudication is as under:

"Whether the action of the management of Indian Airlines in dismissing Laxman Singh from the services w.e.f. 13-11-1986 is justified? If not, to what relief the workman is entitled to?"

2. The facts of the case are that Laxman Singh was appointed as driver in the Indian Air Lines w.e.f. 24-9-1984. At the time of entering into service, he had submitted 'Attestation Form' in triplicate, filing particulars. Column 12 (d) of the format, specifically provided relevant queries from Sl. Nos. (a) to (j). He supplied false information about his antecedent and character, and thereby succeeded in getting appointment.

3. His 'Attestation Form' was sent to Police for verification. The police report revealed that he was involved in FIR No. 520 of 1971 U/s 325 IPC; FIR No. 1122 of 1972 U/s 147, 148 & 149 & 308 IPC; FIR No. 1202 of 1973 U/s 307 IPC; FIR No. 28 of 1981 U/s 392, 34 of IPC; and DD No. 13/A dated 5-9-1984 U/s 107, 151 Cr. P.C. On receiving this verificatory report the management took the view that appointment was obtained by making false declaration and concealing facts and so, a notice was issued to him seeking his reply. This letter is dated 29-4/6-5-1985. He replied to this notice on 7-6-1985 denying all the allegations. However, this reply was not found satisfactory and so, the management of the Indian Air Lines ordered a formal enquiry by letter dated 21-6/13-7-1985 and appointed Mr. S. Jain as Enquiry Officer.

4. The workman participated in the enquiry assisted by his defence representative Mr. P. S. Rana, a co-worker. The Enquiry Officer recorded findings of guilt. A show cause notice proposing punishment of dismissal from service was issued by the Disciplinary Authority to him by letter dated 9-10-1985. He replied this notice, on 15-10-1985. On considering the reply the management of Indian Air Lines dismissed him from service by order dated 13-11-1986. This order has been impugned in this industrial dispute.

5. Two issues, as follow were framed on 30-5-1989;

(i) Whether the domestic enquiry conducted against the workman is fair and proper?; and

(ii) As in terms of reference?

6. It is necessary first to determine fairness of the domestic enquiry as preliminary issue.

7. The workman has challenged fairness of the enquiry on several grounds : that the charge sheet was issued suppressing factual informations, causing prejudice to him; that replies of the workman was not correctly written by the Enquiry Officer who instead of writing "pleaded not guilty" wrote "pleaded guilty", and thereby manipulated the enquiry records; that he was not allowed assistance of his representative; that he was not provided list of witnesses during the enquiry proceeding, and was also denied opportunity to cross examine the witnesses. It is also pleaded that the enquiry officer wrongly proceeded on assumption that he had pleaded guilty whereas he had not pleaded guilty. In any event, the dismissal is unsustainable in law, as he was released in all cases from the court and so departmental action on same facts is barred.

8. The management defended its action, and denied allegations of bias etc. on part of the Enquiry Officer. It is denied that the Enquiry Officer wrongly mentioned "pleaded guilty" and is asserted that full opportunity was given to the workman at all the stages.

9. For sake of convenience, it is appropriate to mention the charges as is given in letter dated 29-4/6-5-1985 :

"That you were offered employment in Indian Airlines, vide Memo No. PLM : PS : RC : APTT : 6165 dated 18-9-1984, as a Driver (MT) which you accepted on 18-9-1984 itself. In terms of clause 9 of this letter of appointment, you submitted to us Attestation Forms duly filled in by you in triplicate. While filing in column 12, you gave negative answers to questions (a) to (j) of column 12(i) and put words 'N.A.' against answer of column 12 (ii). This Attestation Form was submitted to the Police Authorities for verification of character and antecedents. The Police Authorities have informed that the following cases were registered against you by the Police Stations at Gandhi Nagar and Shakarpur.

(1) Case FIR No. 520/71 U/s 325 IPC;

(2) Case FIR No. 1122/73 U/s 147, 148, 149, 308 IPC;

(3) Case FIR No. 1202/73 U/s 307 IPC;

(4) Case FIR No. 28/81 U/s 392/34 IPC; and

(5) DD No. 13/A dated 5-9-1984 U/s 107/151 Cr. P.C.

That the Police authorities have informed that you were arrested at 11.00 A.M. on 29-12-1984 and sent to court of Metropolitan Magistrate, Shahadra, where you were sent to Judicial Custody on the same day. You did not inform the office about your arrest.

The aforesaid acts on your part, if proved constitute misconduct."

10. A glance over the Attestation Form is necessary. Clause (3) of this form reads :

"If the fact that false information has been furnished or that there has been suppression of any factual information in the attestation form, comes to notice at any time during the service of a person, his service would be liable to be terminated."

11. It seems relevant to have glance over column 12 of Attestation Form. The relevant portion of para 12 is reproduced :

12. (i) :

(a) Have you ever been arrested?

Yes/No

- (b) Have you ever been prosecuted? Yes/No
 (c) Have you ever been kept under detention? Yes/No
 (d) Have you ever been bound down? Yes/No
 (e) Have you ever been convicted by a Court of Law? Yes/No
 (f) Have you ever been convicted by a Court of Law for any offence? Yes/No
 (g) Have you Yes/No
 (h) Have you Yes/No
 (i) Is any case pending against you in any Court of law at the time of filing up this Attestation Form. Yes/No
 (j) Is any Yes/No
 (ii) If the answer to any of the above mentioned questions is 'Yes' give full particulars of the case-arrest detention/fine/conviction/sentence/punishment etc. and/or the nature of the case pending in the Court/University/Educational Authority etc. at the time of filing up this form. Yes/No

NOTE :

- (i) Please also see the 'warning' at top of this attestation form.
 (ii) Specific answers to each of the questions should be given by striking out 'Yes' or 'No' as the case may be.

12. Genuineness of the Attestation Form is not denied. The workman has stated that relevant columns were filled by his friend and he was not aware with the content. This plea is an after thought. The workman has signed the form and so has to bear its consequences.

13. There is no material to warrant inference that Mr. S. Jain, Enquiry Officer, was having any bias against the workman or had wrongly written "pleaded guilty". Instead of "pleaded not guilty". In fact, the workman has admitted his signature and photo on the Attestation Form. He has not denied of having been involved in number of cases mentioned in the Police verificatory report. What he explained that he was acquitted of the said charges. It is not material whether he was acquitted or punished but sole question is, whether he supplied incorrect facts to the management? Para 12 of the form mentioned specific questions regarding arrest, prosecution, detention, and conviction etc. The workman has written or got written 'No' against these queries. His plea that it was written by his friend is no defence as the Attestation Form was signed by him and he alone is responsible for supplying false informations. The enquiry report is based on admitted facts, and so the conclusion of the enquiry officer can not be faulted. He provided adequate opportunity to the workman. The enquiry is, thus, held fair and proper.

14. Dismissal order was passed by the Competent Authority as the workman got appointment by fraudulent means. However, dismissal is not justified. The warning clause mentions word 'termination' and the management should have terminated the services of the workman instead of dismissal, which in effect, forfeits future claims also.

15. Accordingly, the action of the management is not unjustified in taking action against the workman. However, the order is modified to extend that instead of dismissal from service, the workman should be treated terminated. The workman is not entitled to any relief save as above.

Award as above.

LUCKNOW

11-6-2002.

-RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.श्रा. 2455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर सीमेंट लि. के प्रबंधन के संबंध निर्याजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर पंचाट (संदर्भ संख्या 61/2001) को प्रकाशित करती है, जो केन्द्राय सरकार का 18-6-02 का प्राप्ति हुआ था।

[सं. एन-29011/55/2001-आई आर (एम)]
 सो. गंगाधरण, अवर सचिव

New Delhi, the 28th June, 2002

S.O. 2455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 61/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Mysore Cements Ltd., and their workman, which was received by the Central Government on 18-06-2002.

[No. I-29011/55/2001-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 24th May, 2002

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LLB.,
 Presiding Officer,
 CGIT-cum-Labour Court,
 Bangalore.

C.R. No. 61/2001

I-PARTY

The President,
 Mysore Cements Employees Association,
 Ammasandra,
 Ammasandra-572211.

II PARTY

The Managing Director,
 Mysore Cements Ltd.,
 Ammasandra,
 Tumkur Dt.,
 Ammasandra.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (2A) of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-29011/55/2001-IR(M) dated 31st July, 2001 for adjudication on the following schedule :

SCHEDULE

"Whether M/s. Mysore Cements Ltd., is justified in transferring and retaining Shri K. Thirumale Gowda, elected Secretary of the Mysore Cements Employees Association at Mysore? If not, to what relief the disputant Association is entitled?"

2. The first party union workman is working with the management. He is the Secretary of the Union. He is transferred and therefore, Industrial Dispute is raised.

3. Notices were issued to parties. After issue of notice first party workman had not appeared at all. For the Second Party vakalat is filed. It appears that the First Party is not interested in this dispute. No purpose will be served if the matter is kept pending unnecessary. Accordingly I proceed to pass the following Order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 24th May, 2002.)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.प्र. 2456.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुंबई पोर्ट ट्रस्ट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई के पंचाट (संदर्भ संख्या 36/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-02 को प्राप्त हुआ था।

[सं. एल-31012/2/97-आई आर (एम)]

मो. गंगाधरण, अवसर सचिव

New Delhi, the 28th June, 2002

S.O. 2456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/97) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bombay Port Trust and their workman, which was received by the Central Government on 18-6-2002.

[No. L-31012/2/97-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice S.C. Pandey, Presiding Officer.

REFERENCE NO. CGIT-36 OF 1997

PARTIES :

Employers in relation to the management of Bombay Port Trust

AND

Their workman, Shri P.D. Dalvi

APPEARANCES :

For the Management : Shri Umesh Nabar, Advocate.

For the Workman : Shri Abhay Kulkarni, Advocate.

State : Maharashtra.

Mumbai, dated this the 31st day of May, 2002

AWARD

The Central Government, in exercise of its powers under clause (d) of Sub-section 1 and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (the Act for short) has referred the dispute between the management of Bombay Port Trust and its workman Shri Prakash D. Dalvi for adjudication by this Tribunal in the following terms :

"Whether the action of the management of Bombay Port Trust in dismissing Shri Prakash D. Dalvi, Tally Clerk, Gr. II without observing the procedure and in refusing to reconsider the decision after acquittal of the workman by the Court is justified? If not, to what relief the workman is entitled?"

2. The facts of this case indicate the following controversy, which is to be adjudicated upon by this Tribunal. The Bombay Port Trust (henceforth 'the employer') had appointed Mr. Prakash D. Dalvi (hereinafter 'the workman') as a Tally Clerk in its organization on 11-5-1981. He was confirmed on 11-5-1982. He was promoted to the post of clerk grade II from 16-1-1984. The workman was posted in the office of Copying Section, Princes and Victoria Docks. The workman was arrested on 10-11-1984 to 28-11-1984 for allegedly aiding and abetting the attempted theft of 21 drums containing Glycerine valued at 2.10 lakhs from shed No. 9 of Indian Dock in Lorry numbered as B.M.Q. 3680. The workman and two others were jointly charge-sheeted for the violation of Regulation 3(1) of Mumbai Port Trust Employees (Conduct) Regulation 1976. The misconduct arose from failure to maintain absolute integrity and dedication to duty. On receipt of the charge sheet dated 5-8-1986 the workman denied the charges framed against him. Thereafter an enquiry was ordered against the workman and two others. It was conducted from 11-5-1987 to 25-11-1990. The workman was found guilty and he was removed from service by order dated 4-3-1991. Thereafter the workman raised a dispute and the matter was referred to this Tribunal.

3. The workman in his statement of claim has raised a plea to the effect that since he was acquitted at the inception in the Criminal Trial on 30-5-1985 as there was no evidence against him for proceeding further, the employer should not have proceeded with the enquiry after two years of the event. The enquiry was delayed. The other point raised was that the principle of 'natural justice' were violated. Thirdly the evidence on record was not such as would implicate the applicant of the misconduct committed by him. It was alleged by him that he was not involved in the crime. He had done the work of Tally Clerk at the instance of one C.T. Kharde who had been convicted. The findings recorded by the Enquiry Officer are perverse.

4. The employer, however, denies all the allegations made by the workman. The sum and substance of his written statement is that the employer had given full opportunity to workman to defend himself. The delay by itself was not fatal. The acquittal of the workman per se would not absolve him of the misconduct. The enquiry was fair and proper. There was no violation of the principles of natural justice. The finding of fact is not perverse.

5. It is necessary to give a brief background of the events culminating in the framing of the charge of failure to maintain absolute integrity. It was alleged that three persons who were jointly hand in glove with Dailadas Sudkaba Chavan, who along with his friends had conspired to steal cargo of 21 drums of Glycerine worth Rs. 2.60 lakhs under the pretext that goods were being warehoused to Hajibunder Dump. In this game V.L. Harite, the Labour Supervisor who was supervising loading of goods by means as Forklift Trucks, in truck No. B.M.U. 3680 was involved. One Anil Shetty smelt foul and found upon enquiries that there was no programme for warehousing of those goods. The truck was however intercepted at yellow gate and stolen property was recovered. It is alleged the role of the workman was that he was preparing a false Talley sheet with view to help the criminals. It is also alleged he destroyed the Talley sheet as soon as he came to know that driver and cleaner were apprehended at the yellow gate. The third man Kadam was also shown to be involved in the conspiracy to commit theft of the goods.

6. The workman filed his affidavit on 5-3-1999. The affidavit filed by the workman was on merits as well as on Preliminary points. Upon the objection taken by the employer, Mr. Justice C.V. Govardhan, the then Presiding Officer passed the order dated 22-4-1999 that the employer at the stage of preliminary points shall confine the questions regarding the validity of domestic enquiry. Therefore the affidavit of the workman shall be read only for the purpose of considering the validity of enquiry at this preliminary stage. The workman was cross examined from this point of

view alone and he closed his case. Thereafter the case was closed for arguments as the employer did not lead any evidence.

7. The first and foremost question for determination is if the discharge of the workman precludes a departmental enquiry. The counsel for the workman says it does; and the counsel for the employer that it does not. In fact there is some misconception about the law on this point. A domestic or departmental enquiry is held for the purpose of punishing a person for a misconduct, which may be classified as a recognized service-offence for the purpose of service jurisprudence. The idea is to punish a person for a delinquency committed during the course of employment. Such a delinquency strictly related to matters of employment. In other words a misconduct must affect the services tendered to an employer by a workman. The penal code covers the offences against the society. Here the canvas is much wider than in a case of misconduct. However certain action may be a misconduct as well as an offence under the general law. In such a case the verdict under penal law may totally affect the departmental or domestic enquiry when the Criminal Court comes to a conclusion that the person covered could by no stretch of imagination be involved in an act which is a penal offence as well as a misconduct for his services. Therefore in certain cases when the criminal charge sheet as well as the departmental/domestic charge sheet shows an identical case in all fours, then the Courts quash the enquiry. The normal rule is that the domestic enquiry is not barred even if there be an acquittal unless the Criminal Court in a particular case was required to go deep in the matter and find that there was no possibility of commission of a criminal act which is identical with the charge sheet in the service matter. This Tribunal is therefore, required to find if the discharge of the workman has any effect upon the enquiry. In the opinion of this Tribunal there is none. The workman was put under trial for an offence under Section 379 I.P.C. He did not take any part in actual theft. The material placed before the Additional Chief Judicial Magistrate was as per police case diary showing that the workman did the work of Tally Clerk at their instance of Labour Supervisor. However he was not charged for helping the main accused or for conspiracy. This part was not examined by the Additional Chief Metropolitan Magistrate. It appears that at the stage of discharge the Addl. Chief Judicial Magistrate could not be said to have gone very deep in the matter. Moreover the charges framed here is not for commission of an offence like 379 I.P.C. For all these reasons this Tribunal concludes that discharge would not in any way affect the domestic enquiry.

8. The next point is to the effect that delay in holding the enquiry is fatal. It is not necessary to discuss the law with reference to various rulings. It must be remembered that the delay has to be shown to be fatal in a particular case. It shall depend upon the nature of a case, the evidence led in the enquiry and the effect of the delay on the evidence led against the workman. The workman in his claim statement and affidavit has not said anything regarding delay. Therefore the employer was not required to say anything in its written statement. Even otherwise in view of the specific stand taken by the workman in his affidavit that he was not the person who prepared the tally sheet, the question of delay loses any significance. The case of State of M.P. Vs. Banusingh AIR 1990 SC 1308 is of no help to the applicant. In that case delay of 12 years was considered to be gross.

9. The workman was represented by M/s. Kunda Samant and Mr. Shetty in his defence. He admitted that he was given full opportunity. A copy of report of the enquiry was given to him for assailing the findings recorded there along with notice for proposed punishment. It is, however, argued that the findings recorded by the enquiry officer are perverse or there is no legal evidence to support the findings. The report of the enquiry officer Shri S.S. Lad is a detailed report. It is found from page 31 of the enquiry report that the enquiry officer has chosen to disbelieve Shri Dalvi who entered the witness box. On the other hand the confessional statement Exhibit 14 made by him to vigilance officer Shri Parulekar was accepted. He made an endorsement on Ex. 14 to the effect that above statement has been correctly recorded by M.G. Parulekar. In an enquiry proceedings, the enquiry officer could rely on a retracted confessional statement. Moreover the enquiry officer 2220 GI/2002—11.

believed the evidence that it was Dalvi who was writing the tally sheet. Such a finding could be reached by a reasonable man on the basis of evidence on record. The three Mazdoors had recognized the workman as the person who was writing papers when truck was being loaded. The presence of Dalvi making the show of writing a tally list was an important factor in the scheme of things of the accused persons. A finding could, therefore be reached. It is not perverse. For all these reasons this Tribunal does not find any merit in the contentions raised on behalf of the applicant.

10. The result of the aforesaid discussion is that this Tribunal does not find any defect in the enquiry and all the contentions raised on behalf of the workman are hereby rejected. Accordingly the reference is answered by saying that it is not correct to say that the enquiry officer did deserve the proper procedure during the enquiry of Shri Prakash D. Dalvi. He was justified in coming to the conclusion that the order of discharge dated 30-8-1985 did not give him any immunity from facing the enquiry. Accordingly this award is given in favour of the employer upholding the order of dismissal dated 4-3-2001.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 28 जून, 2002

का.आ. 2457—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार पिराइट्स फॉस्फेट्स एण्ड केमिकल लि., के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 74/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-6-02 को प्राप्त हुआ था।

[सं. एल-29012/23/87-डी-III (बी)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 28th June, 2002

S.O. 2457.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 74/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the annexure in the Industrial Dispute between the employers in relation to the management of the Pyrites Phosphates & Chemicals Ltd. and their workman, which was received by the Central Government on 21-06-2002.

[No. L-29012/23/87-D-III(B)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, LUCKNOW

PRESENT :

Rudresh Kumar, Presiding Officer.

I.D. No. 74/2002

(Delhi No. 7/87)

Reference No. L-29012/23/87-D. III(B)

ted : 5-10-1987-

BETWEEN

Mathura Dutt Sharma,
Vill. Singriwala,
Post Office Sherpur,
Dehradun (U.P.)

AND,

General Manager,
P.P.C.L.,
1-A.B. Ravindra Nath Tagore Marg,
Dehradun.

AWARD

By order No. L-29012/23/87-D.III(B) dated 5-10-1987, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub section (1) and Section 2(A) of I.D. Act, 1947 (14 of 1947) referred this industrial dispute between Mathura Dutt Sharma, Vill. Sineri-wala, P.O. Sherpur, Dehradun and General Manager, P.P.C.L. 1-A.B. Ravindra Nath Tagore Marg, Dehradun for adjudication to CGIT-cum-Labour Court, New Delhi. Later, the Central Government in the Ministry of Labour by order No. Z-200025/54/2001-CLS-II, dated 19-4-2002 transferred the case to this tribunal for adjudication.

The reference under adjudication is as under :

"Whether the action of the Management of Pyrites Phosphates & Chemicals Ltd., Dehradun in dismissing the services of Mathura Dutt Sharma, Category III, worker w.e.f. 13-6-84 is legal and justified? If not, what relief is the workman entitled to?"

2. The workman, Mathura Dutt Sharma, was employed since 12-11-77 with M/s. Pyrites Phosphate & Chemicals Ltd., Dehradun (hereinafter to be referred PPCL) as an Electrician in category III and was drawing Rs. 950 p.m. As alleged, he was one of the member of the Mercantile Employees Association, which was a registered trade union.

3. The facts recited by the parties in their statements of claim and defence may be summarised hereunder.

4. Mr. B. N. Upadhyaya, Mines Foreman, Maldeota Mines and also Secretary, Maldeota Cooperative Store, was returning on his motor cycle to Maldeota Mine after purchasing articles for Maldeota Cooperative Store, on 3-9-82. At about 2.30 P.M., as soon as he arrived near Parade ground, the workman alongwith a stranger, blocked his motor cycle near the crossing of State Bank of India, Parade Ground, Dehradun and snatched key of the motor cycle. He alongwith his associate assaulted Mr. Upadhyaya without any provocation with right first with key in his hand causing multiple injuries on his face. FIR of the incident was lodged and the management also took cognizance of this incident and placed the workman under suspension. Mr. Upadhyaya was got medically examined on the same day. As many as three injuries was noted on his face, (i) Contusion 5 cm X 4 cm just outer to the left eye; (ii) contusion 2 cm X 2 cm of the inner aspects of upper lip; and (iii) contusion 3 cm X 4 cm just outer to the right eye with sub-conjunctival hamorrhage.

5. The workman also abused Mr. Upadhyaya and threatened him. Above conduct of the workman constituted gross misconduct under the certified standing orders of the company, so, he was charged with violent, abusive, intimidating, insulting or indecent behaviour with a superior under clause 22(B) and 22(11) of the certified standing orders of the company.

6. The workman replied charges on 16-10-82 denying the incident and his involvement. He denied to have met Mr. Upadhyaya on 3-9-82. He imputed motive on the management that it entertained bias against him. Mr. A. K. Pauja was appointed as Enquiry Officer to enquire the charges of threatening and assaulting his Superior Officer Mr. Upadhyaya by the workman.

7. Three charges were framed in the tribunal on 7-4-89 viz:

- Whether there is proper espousal of this industrial dispute? and
- Whether the domestic enquiry conducted against the workman is fair and proper? and
- As in terms of the reference?

8. This industrial dispute has been raised by the workman in person under Section 2(A) of the I.D. Act. Since his

services were terminated as such, the workman, is legally competent to espouse his own cause by raising industrial dispute questioning legality of his termination. There appears no illegality in espousal of his own cause. Issue No. 1, thus, is decided in favour of the workman.

9. The other preliminary issue, is, whether the domestic enquiry conducted against the workman is fair and proper?

10. The incident took place on 3-9-82, near Parade Ground, with Mr. Upadhyaya when he was returning on his motor cycle to Maldeota Mines after making purchases for the store. He was assaulted and threatened of dire consequences. Such act of assaulted on Superior Officer, even out side the premises of the factory, constitute grave misconduct if found proved.

11. While judging the fairness of the enquiry some additional facts also require consideration. In response to the charge sheet the workman filed his written explanation dated 17-9-82. His explanation was not satisfactory and so, the management vide letter No. PPC/DDN/PRD/82-1373 dated 29-10-82 ordered domestic enquiry to enquire into the charges and appointed Mr. A. K. Pauja to act as Enquiry Officer. The Enquiry Officer by his letter No. PPC/DDN/PED/82/1070 dated 23-11-82 advised both the parties that the domestic enquiry will be held on 26-11-82 at 10 A.M. However, on the said date the enquiry could not proceed due to sudden demise of Mr. K. P. Singh, STA of the company. On the next date i.e. 30-11-82 both the parties were present. The Enquiry was also conducted on 3-12-82, 15-12-82, 17-12-82, 20-12-82 and 22-12-82. The workman was given full opportunity to cross examine the witnesses. There appears no procedural mistake in conducting the enquiry. There is no motive against the Enquiry Officer. The management, in order to prove charges, examined Mr. B. N. Upadhyaya, Mine Foreman, who unfolded entire facts having taken place at the time of occurrence. He also informed that after the incident he informed his superior, the Manager Mines and Dy. General Manager. He lodged FIR of the incident at Dalanwala Police Station. He was medically examined at Coronation Hospital (a Government Hospital). He also elaborated the motive behind the assault stating an incident dated 15-8-82 between one local worker and one behari worker. The workman was in controversy with Mr. Upadhyaya. It is stated that Mathura Dutt Sharma entertained mis-understanding and treated Mr. Upadhyaya to be his adversary. Some other incidents had also incited the workman to take revenge against Mr. B. N. Upadhyaya.

12. Mr. B. Sharma corroborated deposition of other witness, PW Ravinder Tiwari was working with contractor Jagdish Singh of Maldeota Mines for about two years. On the date of incident i.e. on 3-9-82 he had gone Dehradun for shopping. While he was returning after shopping from Dehradun market alongwith Mangal Ram a co-worker, he found Mr. Upadhyaya Foreman of Maldeota Mines being assaulted by Mathura Dutt Sharma accompanied with a stranger. Seeing them Mathura Dutt Sharma and the stranger ran away on scooter. This incident was substantiated by the injured as well corroborated by FIR and injuries report. There was no motive to falsely implicate the workman. Injuries were not self inflicted and were noted by a doctor in government hospital. Thus, the correctness of incident can not be doubted.

13. The domestic enquiry can not be faulted being biased. Mr. A. K. Pauja, Enquiry Officer was not inimical to the workman. He provided opportunity to workman to cross examine the witnesses. In fact, there is no material on record to suggest that the Enquiry Officer was biased in any manner or his report is based on extraneous considerations.

14. The main submission of the workman is that FIR was not filed by Mr. Upadhyaya but some one accompanying him. This creates doubt. Any person can bring the law into motion. It is not necessary that FIR should be lodged only by the victim. FIR was taken shortly afterwards of the incident naming the workman, which is suffice to indicate his involvement. Likewise medical report corroborate incident with Mr. Upadhyaya. Examination of Doctor as pleaded by the workman, was not necessary. There is no reason as why the other witness deposed against the workman.

15. The enquiry was fair and proper. The action of the management based on this enquiry report can not be faulted as proper opportunity of hearing etc. were given. The penalty is also not disproportionate.

16. Accordingly, the action of the management in dismissing the workman can not be faulted. The workman is not entitled to any relief.

RUDRESH KUMAR, Presiding Officer

Lucknow :

14-6-2002

नई दिल्ली, 1 जुलाई, 2002

का.आ. 2458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/धम न्यायालय चंडीगढ़ के पंचाट (संदर्भ संख्या 23/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-2002 को प्राप्त हुआ था।

[सं. एल-12012/354/92-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 1st July, 2002

S.O. 2458.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/93) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 28-06-2002.

[No. L-12012/354/92-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI S. M. GOEL, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I.D. 23/93

Durga Dutt Sharma,
S/o Shri Bhagwan Dutt Sharma,
Sharma Niwas,
Khalini,
Shimla.

Applicant

Versus

Regional Manager,
Punjab National Bank,
Regional Office,
The Mall Shimla.

Respondent

APPEARANCES :

For the workman : Shri J. G. Verma with workman.
For the workman : Shri T. C. Chaudhary

AWARD

(Passed on 20-6-2002)

The Central Government vide Notification No. L-12012/354/92-IR(B-2) dated 27th of January, 1993 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Punjab National Bank, in dismissing Shri Durga Dutt Sharma from the bank's services is justified? If not, what relief is the workman entitled to?"

2. The applicant in the claim statement has pleaded that he was employed with the respondent bank in the year 1978.

That during the year 1982 he was assigned the work of loan seat under the supervision of loan incharge and during this period loan cases were processed by the applicant. As the then manager Shri K. S. Rajput was inimical to him, he was falsely implicated in a criminal case and he was placed under suspension in the year 1983. He was served with a charge sheet on 30-3-1983 and later on detailed charge sheet was served upon him on 25-4-1983. According to the charge sheet, the first charge was relating to a loan case in the name of Suresh Chand of Shop No. 11 at Shimla-5. It was stated that there was no person named as Suresh Chand and as such the loan was sanctioned in the name of fictitious person. The 2nd charge relates to the sanction of loan of Rs. 5000 to one Jagdish Sharma, Resident of 78, Tutikandi Shimla. It was alleged that Rs. 2500 have been withdrawn by the applicant from the account No. 37146 which relates to Jagdish Sharma and there was no person residing at Tutikandi and the applicant got the loan sanctioned to a fictitious person. The 3rd charge relates to the destruction of the record by the applicant by removing account opening form and saving form number 37146 from the signatures binder. The fourth charge against the applicant was that one Smt. Parkasho, Mehta Bhawan, Tutikandi Shimla was sanctioned the loan of Rs. 5000 by showing as house hold lady. It was alleged that the loan was sanctioned at the instance of one Shri Sanjay Bharti an employee of Indian Overseas Bank under DRI Scheme. It is pleaded in the claim statement that Central Bureau of Investigation lodged an FIR against one Shri Surinder Kumar and other un-known accused relating to loan case of Shri Suresh Chand and Jagdish Sharma. On the 1st charge, the applicant was convicted by the Chief Judicial Magistrate, but on appeal preferred by the applicant in the Hon'ble High Court he was acquitted on 7-3-1990. The 2nd Charge regarding Jagdish Sharma after thorough and proper investigation the same was dropped by the C.B.I. as nothing incriminating was found against the applicant. The applicant replied the charge sheet subject to the inspection of the documents relied upon by the bank in support of charges levelled against the applicant but the respondent bank denied the opportunity of inspection of the original documents on the ground that the relevant documents were in the possession of the CBI. The applicant was not allowed the assistance of the advocate by the enquiry officer during the enquiry proceedings, although the presenting officer from the side of the bank was a qualified Chartered Accountant as such great injustice was caused to the applicant. The applicant during the course of enquiry proceedings on 20-5-1985 submitted an application for inspection of the documents but vide letter dated 30-7-1985 the management disallowed the inspection which caused injustice to the applicant. Enquiry was conducted by the enquiry officer ex parte despite the medical certificate submitted by the applicant from the Government Medical Hospital, Shimla. The respondent bank dismissed the services of the applicant on the basis of conviction by the C.J.M. in December, 1987. After acquittal from the High Court the applicant represented to the bank for reinstatement in service but the respondent bank declined the request and placed the applicant under suspension from retrospective effect ignoring the rules and bipartite settlement. 1st and 3rd charge was not proved during the enquiry. Only 2nd and 4th charge were proved by the enquiry officer in his report dated 13-3-1986. He was informed and disclosed about this report in the year 1990. It is further alleged that the enquiry conducted was illegal and invalid as no opportunity was given to the applicant to defend the false and frivolous charges and on this score the enquiry is liable to be declared vitiated. The applicant was not given the opportunity to cross-examine the witness of the management. He was proceeded ex parte in the enquiry proceedings despite his medical certificate from the Government hospital. The enquiry officer was bent upon holding him guilty and with biased mind he closed the enquiry proceedings. The findings of the enquiry officer are not based on the evidence adduced by the management during the enquiry proceedings. The findings are perverse and the whole enquiry was conducted against all canon of principle of natural justice. Thus the dismissal order passed by the respondent on the basis of perverse enquiry is bad in law. He has proved that whole enquiry be set aside and he be reinstated in service with full backwages and with all attendant benefits such as seniority and promotions etc. to the applicant.

3. The management in written statement has pleaded that enquiry was conducted against the applicant on four charges. To charges were dropped by the enquiry officer as not proved and the applicant was held guilty in two charges, one the

loan case of Jagdish Sharma and second the loan case of Smt. Parkasho. It is pleaded that the applicant was given full opportunity to defend himself during the enquiry proceedings. The documents were not supplied to the applicant as he failed to show the relevance of the documents. The applicant was allowed to be represented by Shri K. R. Nagpal who is very much legally trained person. The enquiry was conducted against the applicant on day to day basis and no intimation was received by the enquiry officer regarding the illness of the applicant. It is admitted by the management that two charges out of four have been proved by the enquiry officer against the applicant and ample opportunity was provided to the applicant and he was given full opportunity to defend himself during the enquiry proceedings and principle of natural justice has been observed in the enquiry proceedings. It is also admitted by the management that the workman was not allowed to engage the services of advocate because the presenting officer was not legally trained and circumstances of the case also does not warrant the engagement to advocate by the applicant. It was thus prayed that the dismissal of the workman is warranted and the applicant is not entitled to any relief in the present reference and the present reference deserves dismissal.

4. Replication was also filed by the applicant reiterating the claim made in the claim statement.

5. In the evidence, the applicant submitted as many as three affidavits including the affidavit of himself and one Shri Anant Ram and Jagdish Sharma. He has also relied on documents Ex. W1 to W78. The management in rebuttal produced, S. K. Handa, Regional Manager as MW1 who filed his affidavit Ex. M1. He has admitted that as the documents are in the custody of the CBI, the same can not be shown to the applicant. The respondent also produced D. S. Verma as MW2 who stated that documents which were sent to the CBI were found missing from the bank. MW3 Ramesh Tahakur also filed his affidavit Ex. M4 and also appeared as MW3. The management also produced MW4 Lokesh Garol. He admitted in cross-examination that he had not detected the fraud. He has only made the spot verification. He has also admitted that he is not a degree or diploma holder for giving expert opinion on handwriting. He has also admitted that the loan was not sanctioned in his presence and loan documents were also not filled in his presence. MW5 P. C. Sharma was also produced who admitted in cross-examination that he never associated with the enquiry conducted against the workman. He also stated that he was also performing the duties of filling of loan documents as dealing clerk. MW6 Mahesh Kapoor who admitted in cross-examination that he received the loan documents from the CBI and these remained in the custody of loan section. The bank also produced Shri S. P. Srivastava who was the presenting officer during the enquiry conducted against the workman. He has admitted in his cross-examination that enquiry was closed on 22-11-1985 in the absence of the applicant and except one witness others were cross-examined by the workman. He has admitted that loan cases were not recommended by the applicant D. D. Sharma, and the then manager sanctioned the loan of Jagdish Sharma.

6. I have heard the representatives of both the parties and have also gone through the evidence and record of the case in detail. The rep. of the workman has argued that enquiry conducted against the workman is perverse and liable to be vitiated as the applicant was not allowed the opportunity of defence and the enquiry was conducted ex parte against the workman. The medical certificate submitted by the applicant was not considered by the enquiry officer and the enquiry was closed by the enquiry officer without affording opportunity to cross-examine the witnesses of the management. The documents on the basis of which the charge sheet was given was not supplied to the workman and even inspection was not allowed by the management which caused great prejudice to the applicant. The applicant was served with charge sheet containing four charges in which two charges were not proved during the enquiry and remaining two charges were alleged to be proved against the applicant although the applicant was not allowed to lead his defence. In support of his arguments, the rep. of the workman also relied on the various authorities of the Hon'ble Supreme Court and High Court which are detailed as under :

1. 1999 (5) S.L.R. (S.C.) Yogannath D Bedge Vs. State of Maharashtra Page 249.

2. 1996 (1) SLR SC Union of India Vs. I. S. Singh Page 229.
3. (1995) 1 LLJ SC Indatani Vs. Union of India page 431.
4. (1990) 1 LLJ HC Madras S. V. Anagpan Vs. The Tamil Nadu Electricity Board & Others page 273.
5. (1989) 1 LLJ K. Chidambaram Vs. State of Tamil Nadu & Others page 106.
6. (1984) II LLJ SC Rajinder Kumar Kundra Vs. Delhi Administration through Secretary page 517.
7. 1988 AIR SC 469 Iek Raj Alias K. L. Basandhi Vs. Union of India.
8. 1965 AIR SC 17 State of Pb. Vs. M/s. Modern Cultivators.
9. (1983) 4 SCC 491 Shambhu Nath Goel Vs. Bank of Baroda.
10. (1995) I LLJ 1011 Karnatak G. R. Venketeteshwara Reddy Vs. Karnataka State Road Transport Corporation.

7. It is further argued on behalf of the workman that the dismissal order was passed by the manager and the manager was not competent to dismiss the services of the workman, as the competent authority to take disciplinary action against the workman was the regional manager. I have gone through the file of the case. The management has not led any evidence to show that the manager was competent to dismiss the workman from the service. The rep. of the workman has further argued that the one of the charge which the enquiry officer proved against the workman was that the applicant had obtained the loan in the name of one Jagdish Sharma and he himself signed as borrower posing himself as Jagdish Sharma. The enquiry officer gave his findings against the workman on this charge. I have also gone through the record and file of the case. The management has not produced Shri Jagdish Sharma. Rather the workman during the course of the present proceedings produced the said Jagdish Sharma who himself obtained loan from the bank and he himself gave the letter to the branch stating in the application that he has shifted from Tutikandi Shimla to Kandaghat. The said Jagdish Sharma has admitted that he applied the loan voluntarily and he himself signed the application for loan and he further admitted that he himself withdrew the amount of Rs. 2500 from the bank and the said loan was sanctioned to him for running karyana business, and the loan was repaid by him. Thus it is for the respondent bank to prove that the loan was sanctioned to factitious person but from the statement and record of the case it is amply proved on the record that the loan was sanctioned to the genuine person who is still in existence and appeared before this Court to depose in this connection. The rep. of the management has argued that the said Jagdish Sharma was the cousin of the applicant and it was the applicant to get the loan sanctioned to him and the applicant did not disclose his relationship with that of Shri Jagdish Sharma. This itself does not mean that the applicant is guilty of the charge. It is also pertinent to mention here that the C.B.I. also got the signatures of said Shri Jagdish Sharma for comparison with the signatures on the application form alleged to have been signed by D. D. Sharma. But the C.B.I. dropped the charge due to the fact that on comparison it was found that the signatures on the application form was that of Jagdish Sharma and not that of D. D. Sharma, the applicant. In these circumstances it can not be said that the applicant impersonated as Jagdish Sharma and took the loan for his own use in factitious name. This charge was proved by the enquiry officer only on the statement of Lokesh Garol who stated that he made the spot verification about the address of Shri Jagdish Sharma, which is totally baseless as the said Jagdish Sharma gave an application in the branch itself about the change of his residential address from Tutikandi Shimla to Kandaghat. Thus it is proved on the record that the loan was sanctioned to the person who is still existing and also the money was withdrawn by the same person in whose name the loan was sanctioned. On one occasion the said Jagdish Sharma signed the cheque in the bottom and also at the back side and Shri D. D. Sharma the applicant received the cash from the cashier on his behalf. The signatures on this cheque were also verified

by the CBI which were found to be signed by the genuine person and for this reason this charge was dropped by the CBI. The specimen signatures and the disputed signatures are Ex. 13 containing thirteen pages. Thus I hold that the charge was not proved by the management and the finding of the enquiry officer in this regard is not based on any evidence oral as well as documentary.

8. Regarding the fourth charge that the applicant indulged in concealment of material information to help the borrower to get loan sanctioned under DRI Scheme by intentionally not recording the factual position in the case of Parkash Mehta Bhawan, Tuti Kandi, Shimla who was sanctioned a loan of Rs. 5000 and the address of that lady was wrong and who got the loan with the active connivance of the applicant. It is argued by the rep. of the workman that during the enquiry itself the witness of the management Hardev Singh stated that the application form were filled in by the applicant but these were not in his presence. It is argued on behalf of the workman that on the particular date the applicant was not working on that seat and the loan was not sanctioned by the applicant as he was only holding a clerical position and it was for the bank to verify all these facts. In the evidence before this Tribunal also no document or any handwriting expert was produced to prove that the loan applications etc. were filled in by the applicant and with his connivance the said Smt. Parkasho got the loan from the bank and defrauded the bank. The bank is required to prove the charge in full and by merely saying that it was the applicant who is responsible for all this is not sufficient. Moreover despite demanding the documents from the management many times, the applicant was not shown the original documents to prepare his reply. It is also pertinent to mention here that vide letter Ex. W43 it is revealed that branch manager himself wrote a letter that on the relevant date on which the application form was filled i.e. 18-3-1982, the applicant was working as teller and not on loan seat. Thus if at all the applicant filed in the form of Smt. Parkasho, he filed in the same on the information supplied by the borrower. Ex. W44 is the certificate issued on 6-3-1982 by the S.D.M. Shimla verifying that Smt. Parkasho wife of Shri Dass Ram is resident of Mehta Bhawan, Tutikandi, Teh. Shimla, District Shimla. It may be possible that the applicant filled the form on the basis of information supplied to him by the borrower. Thus it can not be said by any stretch of imagination that it is the workman who connived with the borrower to get the loan and thus defrauded the bank. This charge was also not proved fully by the management not in the enquiry and also the management failed to prove the same in this Tribunal also. Thus I have no hesitation in holding that this charge was also not proved against the applicant.

9. Regarding the conduction of the enquiry, first of all the copies of the documents were not supplied to the workman which were very relevant to prepare the reply to the charges and these documents were not supplied to the applicant which is against the principle of natural justice and render the whole enquiry vitiated. It is also proved on the record that exparte enquiry was conducted despite the medical certificate submitted by the applicant well in time and that too from the Government Medical Hospital, Shimla and the enquiry officer chose to ignore the medical certificate and proceeded with the exparte enquiry and no opportunity was allowed to the applicant to lead his defence, and the enquiry was closed on 22-11-1985 despite the fact that vide Ex. W25 the applicant had already sent his medical certificate and requested for adjournment. This act of the enquiry officer is clearly against the principle of natural justice and the enquiry is liable to be vitiated on this score alone. In confirmation to the letter the applicant also sent a telegramme for adjournment of the enquiry. Thus taking into consideration all the circumstances of the case, the enquiry conducted by the bank is vitiated.

10. Thus considering all the facts and circumstances of the case, the enquiry conducted by the bank is vitiated and even otherwise the management failed to prove the charges in this Tribunal also. The applicant is entitled to be reinstated in service with full backwages and with continuity of service with all attendant benefits including seniority etc. The applicant will also be entitled to interest @ 8 per cent on the backwages from the date when it become due. The management is directed to reinstate the applicant with all benefits within one

month from the date of publication of this Award. Central Government be informed.

Chandigarh :
20-6-2002

S. M. GOEL, Presiding Officer

नई दिल्ली, 5 जुलाई, 2002

का.ग्रा. 2459.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, मुंबई के पंचाट (संदर्भ संख्या सीजोआईटी-2/48/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-7-02 को प्राप्त हुआ था।

[सं. एल-41012/105/88-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 5th July, 2002

S.O. 2459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/48/89) of the Central Government Industrial Tribunal No. II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 4-7-2002.

[No. L-41012/105/88-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

S. N. Saundankar, Presiding Officer.

REFERENCE NO. CGIT-2/48/89 of 1989

Employers in relation to the Management of D.R.M., Central Railway Bombay. The Dvl. Railway Manager, Bombay Divn. Central Railway, Bombay V.T. 400001.

AND

Their Workmen

Smt. S. V. Ambekar
386, Pawarwade,
Navipeth,
Pune-411030.

APPEARANCES :

For the Employer : Ms. D. Fernandes Adv. holding for Mr. Suresh Kumar.

For the Workman : Mr. A.N. Kulkarni, Advocate, Mumbai, dated 6th May, 2002

AWARD

By the Award dated 15th December, 1994 (Exhibit-16) my Learned Predecessor held that the departmental inquiry conducted against the workman Mrs. S. V. Ambekar was proper and that action of the management Central Railway, removing the said Ambekar from service by the letter dated 26-6-87 was justified. Consequently claim of workman was dismissed. Record shows that workman Mrs. Ambekar preferred Writ

Petition No. 4817 of 1995 and that Hon'ble High Court, Bombay by the order dated 6-10-2001 (Exhibit-18) quashed and set aside the Award and remanded the matter to the Tribunal to consider the question afresh and to determine in the exercise of its jurisdiction under Section 11A of the Industrial Disputes Act. Whether the findings which was arrived at was justified and if that is so. Whether the penalty was not disproportionate. Consequently this Tribunal has to consider the post in the light of the record.

2. The facts of the case in short are as under :—

According to Mrs. S. V. Ambekar, she was doing clerical work since 1974 in the catering department under the Chief Catering Inspector, Pune. One Mr. Gandhi was Chief Catering Inspector. It is contended by Ambekar that said Gandhi was giving her trouble. He had ill eye on her and as she did not succumb to his wish, he had suspended her in the year 1986 and tried to harass her. It is her contention that though she was regularly attending clerical work he was marking her absent. He was telling her to do work of cleaning, saying she was appointed as cleaner in Sub-staff cadre and that eventually she was chargesheeted on 17-10-1986 for the charges that on 25-6-1986 during office hours she left her place of work and entering the office of Chief Catering Inspector, shouted at Mr. A.C. Gandhi, using filthy and abusive language by indecent behaviour, and instead performing her work of cleaning utensils she abused Mr. Gandhi in the presence of his colleagues viz. Rultke Pande, Lawrence Narona Susane etc. and that from 19-9-1986 she wilfully refused to carry out the legitimate duties allotted to her at VRR and that from 30-9-1986 she was irregular and erratic in her attendance. The domestic inquiry ended in holding Ambekar guilty for the charges proved. Consequently the management imposed major punishment of dismissal of workman w.e.f. 26-6-87. Management opposed the case of workman contending workman was engaged in 1975 as substitute cleaner in Pune catering unit. Workman was most arrogant and was avoiding to do work allotted to her. She was warned for her misbehaviour, but, no progress. She had refused to work as cleaner, catering section Pune. She was transferred to Bombay V.T. in 1986 as she avoided to do work and unauthorisedly remained absent and misbehaved in the working place. She was chargesheeted, and charges were proved during the inquiry. The departmental appeal against the order of dismissal imposed by the Disciplinary Authority, was upheld. It is contended punishment imposed was proportionate to the proved misconduct. Consequently question of her reinstatement does not arise.

3. As stated above, My Learned Predecessor by the Award held the inquiry was proper and that action of removal of workman was justified. Hon'ble High Court held the inquiry was fair. Now in view of the observations made by the Hon'ble High Court and in the light of the evidence on record and the discretion vested under Section 11A of the Industrial Disputes Act, this Tribunal has to determine whether the findings of the Enquiry authority are justified and the order of penalty as imposed is fair and proper or not.

4. From the record (Exhibit-5) it is seen the workman had requested the Tribunal to direct the management to file the inquiry proceedings. However inspite giving sufficient opportunity the same has not been filed during the trial, as according to management, it is untraced. Consequently no inquiry proceeding is before this tribunal.

5. After remanding the matter, workman Mrs. Ambekar filed affidavit in lieu of Examination-in-Chief (Exhibit-26) and closed evidence vide pursus (Exhibit-28). Management however, did not lead oral evidence vide pursis (Exhibit-30) Workman filed written submissions with rulings (Exhibit-31 and 32) and the management vide (Exhibit-33 and 34).

6. On perusing the record as a whole and hearing the counsel I record my findings on the issue Nos. 2, 3, 4 (Exhibit-4) for the reasons mentioned below as finding on issue No. 1 has already been recorded by my Learned Predecessor and was upheld by Hon'ble High Court.

Issues

Findings

2. Whether the action of the Area Superintendent, Pune (Rly.) in removing the said lady from service, by his letter d.d. 26-6-87 is justified and proper?
3. If not, to what relief she is entitled? As per order below
4. What Award?

Findings recorded by the inquiry officer are justified. However action of dismissal is not justified.

As per order below.

REASONS

7. It is seen from the record three charges were framed against the workman Mrs. Ambekar i.e. while working as a substitute, cleaner in Pune Catering Unit, on 25-6-1986 during 14.22 hours, left place of her work and entering into the office of Chief Catering Inspector, Pune shouted at Shri A.C. Gandhi in most indecent manner using filthy and abusive language threatening him of far reaching consequences and on 19-9-1986 while working as a Sub-cleaner, wilfully refused to carry out the legitimate duties allotted to her at VRR and that from 30-9-1986 she was most irregular and erratic in her attendance and had not adhered to the allotted duty hours. Workman by her affidavit (Exhibit-26) relying her earlier affidavit (Exhibit-6) disclosed that she was illegally removed from the service and that she deserves to be reinstated. By way of Statement of Claim she averred that she was substitute cleaner. If she was appointed as a ever, by the application (Exhibit-7-3) she pointed out that she was substitute cleaner. If she was appointed as a substitute cleaner she cannot deny the work of cleaning of utensils. However, it is seen she denied to do that work saying she was initially filing daily returns and maintaining record. The fact that workman was appointed as cleaner and that throughout she pretended herself as a clerk in the catering department and denied to do work of cleaning is refusal to carryout the legitimate duty.

8. It is seen from the record she was transferred from Pune to V.T., Bombay. However, she did not join there saying that was out of vindictive attitude. From the letter dated 16-11-1984 (Exhibit-3) it is seen, Area Superintendent Mr. Saxena reported to his superior on her late attendance on several occasions. According to Mr. Gandhi as seen from the record, workman was irregular, which has not been seriously challenged. From the order of Third Labour Court, Pune dated 20-3-89 (Exhibit-8) it is apparent workman was absent from 4-9-1986 to 18-9-1986. She did not do her duties as substitute cleaner from 1-9-1986 to 1-2-1987, consequently her claim of arrears was dismissed. This shows she was irregular and erratic in her duties.

9. So far the charge of indecent behaviour, workman Ambekar refuted the same contending, Chief Catering Inspector Shri Gandhi had an ill eye on her and since she refused to give response to his ill intentions, she was harassed and that she did not misbehave. She disclosed that on the day of assassination of Indira Gandhi i.e. on 31-10-1984 taking advantage of the loneliness Gandhi confined her for ill intention and that this sexual harassment is violation of female right to gender equality and right to life and liberty, however she has been falsely charged that she who, behaved indecently. So far sexual harassment in the year 1984 is concerned, workman said to have lodged complaint, however, she does not possess documentary evidence to that effect. Witnesses examined by her viz. Rajaram Thakar stated that on the material day he himself had accompanied Ms. Ambekar and her father-in-law to Railway Police Station and there workman disclosed the incident to police but, Mr. Gandhi and his colleagues Mr. Purushottam, Smt Kulkarni etc. intervened and that was pacified there. Thakar admits in his cross-examination that he had no personal knowledge about the alleged incident. He disclosed that Gandhi tendered apology. Had Gandhi tendered apology with the police, workman could have sought certified copy thereof. However that is wanting. True it is, Gandhi in his cross-examination (Exhibit-13) admitted that he was called in the police station, however he flatly denied on tendering apology. When father-in-law was with Ambekar even non verbal conduct of sexual nature workman should not have venture to pacify the same by police. It is to be noted that in the first place in affidavit Mrs. Ambekar (Exhibit-6) stated that on that unfortunate day of 31-10-1984 when Gandhi demanded immoral relationship she refused and ran away from the office however, in many places at different stages, she pointed out that she was confined and that she jumped out through the window and rescued herself. Theory of confinement and running away, is altogether different by which, doubt creeps in. Witnesses of the workman Mr. Purushottam Gajul in his affidavit (Exhibit-11) clearly pointed out that he never heard any quarrel by the seniors with workman. Had incident as alleged occurred it would have certainly become the talk of the catering department, resulting in hearing by Gajul however that appears to have not happened. From the letter filed with list (Exhibit-8) it is seen workman agreed that she had exchanged hot words as mentioned in the letter. Since nothing to show that Gandhi outraged the modesty of workman as alleged and the admitted position that she ex-

changed hot words clearly point out that she was behaving in indecent manner. In this view of the matter, findings recorded by the inquiry officer are fully justified.

10. Now the crucial point crops whether the penalty as imposed, on dismissal, is fair and proper. The Learned Counsel Mr. Kulkarni for the workman submitted with force that the penalty must be commensurate with the gravity of the offence charged. He submits discretion conferred by Section 11A, the Tribunal has to be specific that the order of discharge or dismissal was not justified in the facts and circumstances of the case and even the charges on misconduct are proved, this Tribunal can interfere the same. He submits that the management has not shown that there was any blameworthy conduct of the workman and urged there was no misconduct or circumstance of any improper or disclosing a threatening posture, earlier and submits that when it is said that the language disclosed a threatening posture, it is the subjective conclusion of the person who heard the language because, voice modulation of each person in the society differs and indiscreet, improper, abusive language may show lack of culture, but merely the use of such language on one occasion unconnected with any subsequent positive action and not preceded by any blameworthy conduct cannot permit an extreme penalty or dismissal from service. He submits order of dismissal is not at all justified if we go through the facts and circumstances of the case. He has relied on Ramakant Mishra Vs. State of U.P. & Ors. 1982 SC-Labour Judgement Vol. 7 : 1950-1983. He submits relying on the said decision, in case of proved misconduct. Their Lordships of Supreme Court found withholding of two increments with future effect is adequate punishment for a low-paid employee. He urged with force that workman is a woman having two children was conveniently posted in catering department of Railway, Pune. However with vindictive attitude she was transferred to Bombay in 1986 and that she got her transfer cancelled and assuming erred in getting the transfer cancelled such erring workman should be given an opportunity to reform as the justice must be tempered with mercy and that the Hon'ble Apex Court in Scooter India Ltd., Lucknow Vs. Labour Court, Lucknow allowed the erring workman in that case, to pay back wages to some extent instead of penalty of dismissal. In that context he submits, penalty of dismissal imposed on the workman is most disproportionate. On the other hand, the Learned Counsel Ms. Fernandes for the management submits that, workman by her conduct invited indiscipline of the entire catering department, has gone to the extent of blaming top officials. If sympathy is shown would be against the public policy. She has relied on Municipal Committee, Bahadurgarh & Ors Vs. Krishnan Behari & Ors. (1996) 33 Administrative Tribunals Cases 238. She has also relied on Janatha Bazar (South Kanara Central Cooperative Wholesale Stores Ltd.) and Ors. Secretary, Sahakari Nourara Sangha & Ors. (2000) 7 SCC 517, wherein Their Lordships observed the Labour Court cannot substitute the penalty imposed by the employer. It is well settled position that Tribunal under Section 11A of the Industrial Disputes Act, can interfere with the order of penalty of dismissal. However, it is apparent that the management cannot be embarrassed to such an extent unless the punishment is highly disproportionate to the charge as held in Dharmapuri District Co-operative Sugar Mills, Vs. The Presiding Officer, Labour Court, Vellore and Ann, 1997 11 LLJ pg. 833.

In the case in hand, findings recorded by the inquiry officer against the charges of indecent behaviour wilful refusal to carry out the duties, the irregular and erratic attendance of workman as stated above are justified, and in that context, the penalty as imposed on dismissal, if looked from the decisions referred to above, can be said to be disproportionate. In case, Ramakant Mishra Vs. State of U.P., order of dismissal was held not justified in the case of misconduct on using abusive language and in the case of Scooter India Limited. Their Lordships of Apex Court observed that opportunity is necessary to be given to the workman to prove himself to be reformed and disciplined employee, and the justice must be tempered with mercy, the punishment imposed needs to be interfered.

12. In the case in hand Ambekar is a low paid employee, a middle aged woman having responsibility of two children who was engaged in the services in 1974 but, away from service since 1987. Keeping her away from service for a long period was lesson to her and considering all these extenuating circumstances though inquiry on the charges of misconduct was held fair and proper punishment of dis-

missal imposed is disproportionate, therefore, I find proper to interfere the same and that to my view, it is proper to reinstate her in service, however, without any back wages and seniority. Issues are therefore answered accordingly and hence the order:

ORDER

The findings recorded by the inquiry authority are justified, however, the punishment of dismissal imposed on the workman is disproportionate. The management is directed to reinstate her in service without giving back wages and seniority.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 8 जुलाई, 2002

का.आ. 2460.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि प्रतिभूति मुद्रणालय, हैदराबाद में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 12 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (इ) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा.सं. एस-11017/8/97-आईआर(पीएल)]

एच.सी. गुप्ता, उप सचिव

New Delhi, the 8th July, 2002

S.O. 2460.—Whereas the Central Government is satisfied that the public interest requires that the services in Security Printing Press, Hyderabad which is covered by item 12 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/8/97-IR(PL)]

H. C. GUPTA, Dy. Secy.

नई दिल्ली, 8 जुलाई, 2002

का.आ. 2461.—उत्प्रास अधिनियम, 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार के स्वास्थ्य एवं परिवार कल्याण मंत्रालय के सचिवालय सेवा संवर्ग के अनुभाग अधिकारी श्री बृज नन्दन प्रसाद को दिनांक 12 जून, 2002 (पूर्वाह्न) से श्रम मंत्रालय में उत्प्रासी संस्की-II, मुम्बई, नियुक्त करती है।

[सं. एस-11011/1/2000-उत्प्रास]

पी. करुणासामी, उप सचिव

New Delhi, the 8th July, 2002

S.O. 2461.—In exercise of the powers conferred by Section 3, Sub-Section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri Brij Nandan Prasad, Section Officer of the CSS cadre of Ministry of Health and Welfare, as Protector of Emigrants-II, Mumbai, in the Ministry of Labour with effect from 26th June, 2002 (Forenoon).

[No. S-11011/1/2000-Emig.]

P. KARUPASAMY, Dy. Secy.

नई दिल्ली, 10 जुलाई, 2002

का.अ. 2462:—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 अगस्त, 2002 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्न-लिखित क्षेत्रों में प्रवृत्त होंगे अर्थात् :-

1. जिला किराँन के कलनागपल्लि तालुक में ग्राम ओचिरा के अधीन आने वाले क्षेत्र
2. जिला आलप्पी के मवेलिकरा तालुक में ग्राम तेक्केकरा के अधीन आने वाले क्षेत्र।

3. जिला आलप्पी के कारसिकपल्लि तालुक में ग्राम आरादुपुप्पा, कुट्टुकुलम और कान्डल्लूर के अधीन आने वाले क्षेत्र।

[सं. एस-38013/14/2002-एस.एस.-I]

के.सी. जैन, निर्देशक

New Delhi, the 10th July, 2002

S.O. 2462.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st August, 2002 as the date on which the provisions of Chapter-IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala, namely :—

- (1) Ochira Village in Karunagapally Taluk of Quilon District.
- (2) Thekkakara Village in Mavelikara Taluk in Alleppey District.
- (3) Arattupuzha Village Muthukulam Village, Kandallloor Village in Karthikappally Taluk in Alleppey District.

[No. S-38013/14/2002-SS-I]

K. C. JAIN, Director